

EXHIBIT 68

REDACTED

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Page 1

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES, et al., :
:
Plaintiff, :
:
vs. : Case No.:
: 1:23-CV-00108-LMB-JFA
GOOGLE, LLC, :
:
Defendant. :
-----:

CONFIDENTIAL VIDEOTAPED DEPOSITION OF ADORIA LIM

DATE: February 29, 2024
TIME: 9:37 a.m.
LOCATION: U.S. Department of Justice
Antitrust Division
450 Fifth Street, Northwest
Washington, D.C. 20530

REPORTED BY: Shari R. Broussard, RPR, CSR
Reporter, Notary
Job No. CS6485261

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| 1 | A P P E A R A N C E S | |
| 2 | On behalf of Plaintiff: | |
| 3 | CRAIG BRISKIN, ESQUIRE | |
| | KATHERINE CLEMONS, ESQUIRE | |
| 4 | ALVIN CHU, ESQUIRE | |
| | U.S. Department of Justice | |
| 5 | 450 Fifth Street, Northwest | |
| | Washington, D.C. 20530 | |
| 6 | On behalf of Defendant: | |
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| 14 | ALSO PRESENT: | |
| 15 | David Campbell, Video Technician | |
| | John Griffin, DoJ | |
| 16 | Oliva Choi, DoJ | |
| | Margaret Lynn, DoJ | |
| 17 | Dulce Nunez, DoJ | |
| | David Pearl, Esquire | (Via Zoom) |
| 18 | Alison Forman, The Brattle Group | (Via Zoom) |
| | Jack Turner, The Brattle Group | (Via Zoom) |
| 19 | Julie Suh, The Brattle Group | (Via Zoom) |
| | Xiaoxi Tu, Esquire | (Via Zoom) |
| 20 | | |
| 21 | | |
| 22 | | |
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| 22 | (* Exhibits attached to transcript.) | |
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| 2 | P R O C E E D I N G S | |
| 3 | VIDEO TECHNICIAN: Good morning. We are | |
| 4 | going on the record on February 29th, 2024, and | |
| 5 | the time on the video monitor is 9:37 a.m. | |
| 6 | This is Media Unit Number 1 of the | |
| 7 | video-recorded deposition of Adoria Lim in the | |
| 8 | matter of United States of America, et al., versus | |
| 9 | Google, LLC. The location of this deposition is | |
| 10 | 450 Fifth Street, Northwest, Washington, D.C. | |
| 11 | 20530. | |
| 12 | My name is David Campbell, representing | |
| 13 | Veritext, and I'm the videographer. The court | |
| 14 | reporter today is Shari Broussard also with | |
| 15 | Veritext. | |
| 16 | Counsel will please identify yourselves | |
| 17 | for the record after which the court reporter will | |
| 18 | please swear in the witness and we can proceed. | |
| 19 | MS. GOODMAN: Martha Goodman on behalf | |
| 20 | of plaintiff Google -- I'm sorry, defendant | |
| 21 | Google, joined by Annelise Corriveau and Byron | |
| 22 | Becker of Paul Weiss and Ricardo -- I forgot his | |
| | last name -- | |

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| 1 with Brent. | 1 who worked on the quantification of damages at The |
| 2 Q And to the best of your memory, when did | 2 Brattle Group for this matter? |
| 3 you first speak with Brent? | 3 A Again, in reference to -- in -- in |
| 4 A I don't have a more specific memory | 4 support of either Dr. Respess or myself? |
| 5 other than the spring of 2023. | 5 Q Yes. |
| 6 Q And have you worked -- what's your best | 6 A Also Gage Hornung, H-O-R-N-U-N-G. |
| 7 estimate of the number of hours you have billed on | 7 Q Anybody else? |
| 8 this matter since you began work on it sometime in | 8 A There are some individuals in our IT |
| 9 the spring or late spring of 2023? | 9 group whose names I don't remember right now. |
| 10 A Over 600 hours. | 10 Q Okay. Did you review bills on this |
| 11 Q And those are billed at -- all 600 of | 11 matter? |
| 12 those hours were billed at the rate of \$800 an | 12 When I say "this matter," I'm referring |
| 13 hour? | 13 specifically to the quantification of damages done |
| 14 A Yes. | 14 by Dr. Respess and yourself. |
| 15 Q How many other individuals at The | 15 A I don't review the invoices themselves. |
| 16 Brattle Group besides yourself have billed to this | 16 I review the time entries for those individuals |
| 17 matter? | 17 who are working -- who work to support Dr. Respess |
| 18 A More than 30, less than 50. | 18 and who are working to support myself. |
| 19 Q And how many individuals at -- at The | 19 Q Okay. And have you reviewed the time |
| 20 Brattle Group have worked on the quantification of | 20 entries for the individuals who are working to |
| 21 damages in this matter? | 21 support Dr. Respess and yourself throughout the |
| 22 A Are you -- I need you to clarify -- or | 22 entirety of Brattle Group's engagement on this |
| Page 15 | Page 17 |
| 1 let me ask you to clarify with regard to in | 1 matter, meaning from the spring of 2023 to the |
| 2 support of Dr. Simcoe, in support of Dr. Respess | 2 present? |
| 3 and/or myself or are you asking about -- are you | 3 MR. BRISKIN: Let me just state that |
| 4 asking for the collective -- those collective -- | 4 Section 515 of the expert stip protects budgets, |
| 5 all those people under that umbrella, or are you | 5 invoices, bills, receipts, or time records |
| 6 asking about a specific -- under a specific -- in | 6 concerning testifying experts, or consultants, |
| 7 support of a specific expert? | 7 their staff, assistants, colleagues, or associates |
| 8 Q Sure. So for Dr. Respess and yourself, | 8 of other companies or organizations from |
| 9 how many individuals at The Brattle Group have | 9 disclosure. |
| 10 worked on what I'll call the quantification of | 10 MS. GOODMAN: I am not asking about the |
| 11 damages that is reflected in your report and | 11 contents of the bills, I'm asking if she reviewed |
| 12 Dr. Respess' report? | 12 bills. |
| 13 A More than five, less than ten. | 13 MR. BRISKIN: Right. I'm instructing |
| 14 Q The individuals who you met with at The | 14 the witness not to testify with regard to any |
| 15 Brattle Group to prepare for your deposition which | 15 contents of budgets, invoices, bills, receipts, or |
| 16 you named earlier, are those the individuals who | 16 time records. |
| 17 worked on the quantification of damages at The | 17 BY MS. GOODMAN: |
| 18 Brattle Group? | 18 Q So my question again is do you review |
| 19 A Those are a -- those individuals that I | 19 the time entries for the individuals who you named |
| 20 named earlier are a subset. | 20 who worked to support Dr. Respess and yourself |
| 21 Q So you named seven individuals earlier. | 21 from the beginning of this -- the engagement on |
| 22 Are there any other individuals you're remembering | 22 this matter to the present? |

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| <p>1 A Yes.</p> <p>2 Q Okay. Did the time entries also</p> <p>3 indicate the hourly rate at which somebody bills?</p> <p>4 MR. BRISKIN: I'll instruct the witness</p> <p>5 not to answer.</p> <p>6 BY MS. GOODMAN:</p> <p>7 Q How do you know the hourly rate of</p> <p>8 individuals who bill out at The Brattle Group on</p> <p>9 this matter?</p> <p>10 A I'm involved in the budgeting process.</p> <p>11 Q Okay. Can you approximate how many</p> <p>12 hours the eight individuals you named who have</p> <p>13 worked at The Brattle Group in support of</p> <p>14 Dr. Respass and your analyses in this matter, how</p> <p>15 many hours have those individuals billed over the</p> <p>16 life of that work?</p> <p>17 A I couldn't tell you that. I -- I don't</p> <p>18 know.</p> <p>19 Q Can you approximate it?</p> <p>20 A I have not focused on that and I have</p> <p>21 not kept count.</p> <p>22 Q Are you aware of any individual, other</p> | <p>1 report and your report on this matter?</p> <p>2 A I don't know.</p> <p>3 Q Can you give an approximation?</p> <p>4 A I'm -- as I said earlier, I'm -- I don't</p> <p>5 see the invoices when they go out and I -- I'm not</p> <p>6 in charge of collections on those invoices either,</p> <p>7 so it's not something I'm focused on.</p> <p>8 Q Do you make a distinction between</p> <p>9 invoices and collections in your answer?</p> <p>10 A So they're -- they're connected because</p> <p>11 you don't get collections unless you invoice. So</p> <p>12 you could invoice and not collect. But in either</p> <p>13 case -- in any case, as I said, I haven't -- I'm</p> <p>14 not in charge of the invoicing process or</p> <p>15 collection process in this matter.</p> <p>16 Q Okay. Is it possible to -- is it</p> <p>17 possible for The Brattle Group to invoice an</p> <p>18 amount and collect less than that amount?</p> <p>19 MR. BRISKIN: Objection to the form.</p> <p>20 THE WITNESS: Unfortunately, yes.</p> <p>21 BY MS. GOODMAN:</p> <p>22 Q And it's the case that just because an</p> |
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| <p>1 than yourself, at The Brattle Group billing more</p> <p>2 than 600 hours --</p> <p>3 A I --</p> <p>4 Q -- on the quantification of damages?</p> <p>5 A I haven't focused on that, so I -- I --</p> <p>6 I don't know.</p> <p>7 Q Do you expect your staff to work more or</p> <p>8 fewer hours than yourself?</p> <p>9 MR. BRISKIN: Objection to the form.</p> <p>10 THE WITNESS: Can you clarify what you</p> <p>11 mean by that question? Are you referring in a --</p> <p>12 in a given year, just generally or --</p> <p>13 BY MS. GOODMAN:</p> <p>14 Q On -- on this matter do you expect your</p> <p>15 staff to work more or fewer hours than yourself?</p> <p>16 MR. BRISKIN: Objection to form.</p> <p>17 THE WITNESS: I don't have an</p> <p>18 expectation in that regard.</p> <p>19 BY MS. GOODMAN:</p> <p>20 Q Okay. Do you know how much The Brattle</p> <p>21 Group has been paid in connection with the work it</p> <p>22 has done with respect to Dr. Respass' work --</p> | <p>1 amount is invoiced doesn't mean that's the amount</p> <p>2 that's ultimately paid, correct?</p> <p>3 A Unfortunately, correct.</p> <p>4 Q Okay. And so you've worked you said</p> <p>5 about --</p> <p>6 A But generally speaking again, I've</p> <p>7 almost never seen a --</p> <p>8 Q I don't think there's a question</p> <p>9 pending.</p> <p>10 A Sorry, I didn't finish my answer, so I</p> <p>11 was just completing my answer.</p> <p>12 Again, I don't think I've seen an</p> <p>13 instance in which you can collect or we've</p> <p>14 collected without invoicing.</p> <p>15 Q Okay. Are you done?</p> <p>16 MR. BRISKIN: Objection to form.</p> <p>17 THE WITNESS: I'm done with that last</p> <p>18 answer.</p> <p>19 BY MS. GOODMAN:</p> <p>20 Q Okay. You've billed you said over 600</p> <p>21 hours on this matter, correct?</p> <p>22 A Correct.</p> |

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| <p>1 Q Are all 600 of those hours in connection 2 with the quantification of damages work done in 3 the Respess/Lim report -- reports?</p> <p>4 A Well, the -- since the time I filed my 5 rebuttal report, I've billed additional hours in 6 preparing for this deposition. So the 600 hours 7 would be an approximation of hours billed to date.</p> <p>8 Q Okay. So of the 600 hours that you have 9 billed to date, how many of those hours relate to 10 the work to quantify damages in this case?</p> <p>11 A I'm not sure what you mean by my -- by 12 that question, but I've spent about 400 hours -- 13 I've spent about 400 hours in support of -- in 14 support of Dr. Respess in the preparation of his 15 report, you know, in which he quantified damages.</p> <p>16 Q Okay. I'm just trying to understand of 17 the 600 hours you spent in connection with the 18 Respess/Lim reports, including the preparation for 19 your deposition about which we're here to -- 20 you're here to testify -- preparation of your 21 reports about which you're here to testify today, 22 how many of those 600 hours go to the work related</p> | <p>1 I'm not asking if you kept count, I'm 2 asking if you can give an approximation of how 3 many hours of the 600 were spent in connection 4 with work on the quantification of damages?</p> <p>5 MR. BRISKIN: Objection to form.</p> <p>6 THE WITNESS: I haven't focused on 7 keeping track of my hours in the manner in which 8 you described. I wouldn't be able to give you any 9 approximation.</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q So you can't say if you spent one hour 12 working on the quantification of damages and 599 13 hours working on the accounting opinions you 14 offer?</p> <p>15 MR. BRISKIN: Objection to form.</p> <p>16 THE WITNESS: I'm sorry, I just haven't 17 kept track in the manner in which you're asking. 18 I -- I -- I just can't give an approximation.</p> <p>19 BY MS. GOODMAN:</p> <p>20 Q Okay. So it's possible you've spent one 21 hour of the 600 hours on the quantification of 22 damages?</p> |
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| <p>1 to the profitability opinions versus the damages 2 opinions?</p> <p>3 A I would not be able to tell you that. I 4 have not kept count.</p> <p>5 VIDEO TECHNICIAN: I'm sorry. Can we go 6 off the record one second?</p> <p>7 MS. GOODMAN: Sure.</p> <p>8 MR. BRISKIN: Sure.</p> <p>9 VIDEO TECHNICIAN: Off the record at 10 10:03.</p> <p>11 (Brief recess.)</p> <p>12 VIDEO TECHNICIAN: Back on the record at 13 10:08.</p> <p>14 BY MS. GOODMAN:</p> <p>15 Q Ms. Lim, of the 600 hours that you have 16 spent working on the topics reflected in the 17 Respess and Lim reports, including preparing for 18 your deposition, can you give an approximation of 19 how many of those hours relate to the calculation 20 of damages?</p> <p>21 A I'm sorry, I didn't keep count.</p> <p>22 Q When you were -- withdrawn.</p> | <p>1 MR. BRISKIN: Objection to form.</p> <p>2 THE WITNESS: I'm sure that I spent more 3 than one hour.</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q Okay. Have you spent more than ten 6 hours on the approximation of damages?</p> <p>7 A I've spent more than ten hours.</p> <p>8 Q Have you spent more than a hundred hours 9 on the calculation of damages?</p> <p>10 A I'm not sure. I haven't kept count.</p> <p>11 It's quite possible.</p> <p>12 Q Is it quite possible or probable or more 13 likely than not? Can you say more than possible?</p> <p>14 A It's quite possible.</p> <p>15 Q Dr. Respess billed 348.5 hours on this 16 matter.</p> <p>17 Does that figure help you approximate 18 how many hours you spent on the topic of 19 calculating damages in this matter?</p> <p>20 A No.</p> <p>21 Q Is it quite possible that you billed 22 more than 200 hours to the calculation of damages</p> |

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| <p>1 withdrawal prior to reading his declaration 2 yesterday. 3 BY MS. GOODMAN: 4 Q When did you learn that Dr. Respess 5 could no longer work on the matter? 6 MR. BRISKIN: You can answer with a date 7 if you know. 8 THE WITNESS: February 12th. 9 BY MS. GOODMAN: 10 Q Who wrote your rebuttal report? 11 A I wrote my rebuttal report as it is 12 filed. 13 Q Did you work on your rebuttal report 14 prior to February 12th? 15 MR. BRISKIN: I'd just instruct the 16 witness not to answer with regard to the contents 17 of the report. 18 THE WITNESS: Prior to Dr. Respess' 19 withdrawal, I worked with Dr. Respess on the 20 preparation of what was at -- what was at that 21 time going to be his rebuttal report. 22 BY MS. GOODMAN:</p> | <p>1 them out." Could you clarify, please. 2 Q Did you type every word in your rebuttal 3 report yourself? 4 MR. BRISKIN: Objection to form. 5 THE WITNESS: If you're asking me 6 whether I keystroked every single letter in my 7 rebuttal report, no. 8 MR. BRISKIN: Aren't we getting close to 9 an hour? Is this a good time to take a break? 10 MS. GOODMAN: Sure. 11 MR. BRISKIN: Okay. 12 VIDEO TECHNICIAN: Off the record at 13 10:37 a.m. 14 (Brief recess.) 15 (Lim Exhibit Number 1 was 16 marked for identification.) 17 VIDEO TECHNICIAN: Back on the record at 18 10:53. 19 BY MS. GOODMAN: 20 Q Ms. Lim, you've been handed your 21 rebuttal report marked as Lim Exhibit 1. 22 Do you have that in front of you?</p> |
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| <p>1 Q Did you write any portions of the 2 rebuttal report as filed prior to February 12th, 3 2024? 4 MR. BRISKIN: You can answer yes or no. 5 THE WITNESS: No. 6 BY MS. GOODMAN: 7 Q Did you -- are there any portions of the 8 rebuttal report, which you filed on February 13th, 9 2024, which were written by Dr. Respess? 10 MR. BRISKIN: I'd just instruct the 11 witness not to respond with regard to the 12 contents, but you can respond yes or no. 13 THE WITNESS: I wrote my rebuttal report 14 as filed. 15 BY MS. GOODMAN: 16 Q You wrote the entirety of your rebuttal 17 report as filed; is that your testimony? 18 MR. BRISKIN: Objection to form. 19 THE WITNESS: Yes, it is my words. 20 BY MS. GOODMAN: 21 Q Did you write them out yourself? 22 A I'm not sure what you mean by "write</p> | <p>1 A I do. 2 Before we continue, I realized that I 3 need to clarify. I left one individual off of the 4 list of names that I had given you with regard to 5 other Brattle staff that assisted Dr. Respess in 6 the preparation of his report and assisted me in 7 the preparation of my report and that is Alison 8 Forman. 9 Q Okay. So you have Exhibit 1 in front of 10 you? 11 A I do. 12 Q And the -- the opinions you offer in 13 this case are based on the assumption that Google 14 has violated the antitrust laws as alleged in the 15 amended complaint; is that accurate? 16 A Are you referring to a particular 17 portion of my report? 18 Q I'm just asking if your opinions are 19 based on the assumption that Google has violated 20 the antitrust laws as alleged in the amended 21 complaint. Is that accurate? 22 A Yes.</p> |

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| <p>1 Q Okay. And you have not been asked to 2 independently evaluate the legal claims in this 3 matter; is that accurate?</p> <p>4 A Yes.</p> <p>5 Q And is it your testimony that you did 6 not independently evaluate Dr. Simcoe's analyses 7 in this case?</p> <p>8 A That is correct.</p> <p>9 Q And the only thing you do with 10 Dr. Simcoe's analyses is use them as inputs to 11 calculate overcharges and advertiser damages?</p> <p>12 A That is correct.</p> <p>13 Q Did you read Dr. Simcoe's report?</p> <p>14 A I have.</p> <p>15 Q Did you evaluate or study his models to 16 understand how he arrived at the but-for take rate 17 that he offers in his report?</p> <p>18 MR. BRISKIN: Objection to form.</p> <p>19 THE WITNESS: Can you ask the question 20 again?</p> <p>21 BY MS. GOODMAN:</p> <p>22 Q Did you study his models to understand</p> | <p>1 THE WITNESS: Correct.</p> <p>2 BY MS. GOODMAN:</p> <p>3 Q And you're not offering an opinion in 4 this case as to whether the overcharge you 5 calculate was caused by anticompetitive conduct; 6 is that correct?</p> <p>7 A One more time.</p> <p>8 Q You are not offering an opinion in this 9 case as to whether the overcharge you calculate 10 was caused by anticompetitive conduct; is that 11 correct?</p> <p>12 A That is correct.</p> <p>13 Q You are not opining in this case that 14 Google is not in compliance with generally 15 accepted accounting principles by treating itself 16 as a principal, correct?</p> <p>17 A I do not have an opinion that Google's 18 financial statements in which Google considers 19 itself a principal, that those financial 20 statements are materially misstated.</p> <p>21 Q You -- you do not offer an opinion in 22 this case as to whether Google's internal DVAA</p> |
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| <p>1 how he arrived at the but-for take rates that he 2 offers in his report?</p> <p>3 A I -- I read his report. I wouldn't use 4 the word "study" to describe what I did. I read 5 his report at a high level and did not attempt to 6 evaluate his analyses.</p> <p>7 Q And because you did not attempt to 8 evaluate his analyses, you have no opinion about 9 the strength or weakness of his analyses; is that 10 accurate?</p> <p>11 MR. BRISKIN: Objection to form.</p> <p>12 THE WITNESS: I did not independently 13 evaluate Dr. Simcoe's analyses.</p> <p>14 BY MS. GOODMAN:</p> <p>15 Q And is it accurate then that you have no 16 opinion about the strength or weakness of his 17 analyses?</p> <p>18 A I have no opinions about that.</p> <p>19 Q And so you have no opinion whether 20 Dr. Simcoe's analyses are correct or incorrect, correct?</p> <p>22 MR. BRISKIN: Objection to form.</p> | <p>1 product area reporting was in accordance with 2 GAAP, correct?</p> <p>3 MR. BRISKIN: Objection to form.</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q Let me withdraw the question.</p> <p>6 Your opinion in this case -- withdrawn.</p> <p>7 You do not opine that Google's internal 8 DVAA product area reporting was not in accordance 9 with GAAP, correct?</p> <p>10 MR. BRISKIN: Objection to form.</p> <p>11 THE WITNESS: So I -- I don't -- I don't 12 have an opinion about whether Google's internal 13 DVAA product area reporting was in accordance with 14 GAAP.</p> <p>15 BY MS. GOODMAN:</p> <p>16 Q And --</p> <p>17 MR. BRISKIN: Did you finish your 18 answer?</p> <p>19 THE WITNESS: I did. Thank you.</p> <p>20 BY MS. GOODMAN:</p> <p>21 Q And it is accurate that you do not have 22 an opinion about whether Google's internal DVAA</p> |

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| 1 product area reporting was not in accordance with 2 GAAP, correct? 3 MR. BRISKIN: Objection to form. 4 THE WITNESS: I think -- I think Google 5 has stated that its DVAA internal management view 6 reporting is not in accordance with GAAP. 7 BY MS. GOODMAN: 8 Q I'm asking for your opinion in this 9 case. Can you please answer the question as I 10 posed it. 11 You do not have an opinion about whether 12 Google's internal DVAA product area reporting was 13 not in accordance with GAAP, correct? 14 MR. BRISKIN: Objection to form. 15 THE WITNESS: So as I just said, Google 16 has said that its management view internal 17 reporting is not in accordance with GAAP and I see 18 no reason to -- I've not seen anything to indicate 19 that Google is wrong in that respect. 20 BY MS. GOODMAN: 21 Q I'm just asking whether you offer an 22 opinion one way or another in this case as to | 1 I do not have an opinion about whether 2 Google's financial statements -- publicly-reported 3 financial statements in which Google treats itself 4 as a principal for most transactions is materially 5 misstated relative to GAAP. 6 BY MS. GOODMAN: 7 Q It is accurate that you do not disagree 8 with Google's treatment of itself as a principal 9 in its publicly-filed financial statements 10 reported under GAAP, correct? 11 MR. BRISKIN: Objection to form. 12 THE WITNESS: Sorry, I'm getting a 13 little -- little confused about the double 14 negatives. One more time. 15 BY MS. GOODMAN: 16 Q It is accurate that you do not disagree 17 with Google's treatment of itself as a principal 18 in its publicly-filed financial statements 19 reported under GAAP? 20 MR. BRISKIN: Objection to form. 21 THE WITNESS: I don't agree or disagree. 22 I don't have an opinion about that. |
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| 1 whether Google's internal DVAA management 2 reporting is not in accordance with GAAP and it 3 sounds like the answer is no. Am I correct in 4 understanding your testimony? 5 MR. BRISKIN: Objection to form. 6 THE WITNESS: I -- I just think it's a 7 little more nuanced than that. 8 BY MS. GOODMAN: 9 Q Okay. You do not opine that Google is 10 not in accordance with GAAP by treating itself as 11 a principal, correct? 12 MR. BRISKIN: Objection to form. 13 THE WITNESS: Sorry, one more -- one 14 more time. 15 BY MS. GOODMAN: 16 Q You do not offer an opinion that Google 17 is not in accordance with GAAP by treating itself 18 as a principal, correct? 19 MR. BRISKIN: Objection to form. 20 THE WITNESS: I'm not sure how that 21 question is different from the other question you 22 asked before. | 1 BY MS. GOODMAN: 2 Q Okay. And you do not offer an opinion 3 in this matter that Google misapplied ASC 606 by 4 treating itself as a principal, correct? 5 MR. BRISKIN: Objection to form. 6 THE WITNESS: Again, are you -- are you 7 referring to Google's publicly-reported financial 8 statements? 9 BY MS. GOODMAN: 10 Q Yes. 11 A I don't have an opinion one way or the 12 other. I don't agree or disagree with regard to 13 Google's treatment of itself as a principal for 14 most transactions in those financial statements. 15 Q And in this line of questioning you were 16 looking at Exhibit 1, which is your rebuttal 17 report. Which parts of Exhibit 1 were you 18 reading -- reading? 19 MR. BRISKIN: Objection to form. 20 THE WITNESS: You asked me some 21 questions about whether I had performed an 22 independent evaluation of Dr. Simcoe's work and I |

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| 1 in Damages Analysis"? 2 A The -- the avenues are the red lines 3 or -- or, sorry, the FAA purchase avenues are the 4 red arrows shown in Figure 4 and the FAA purchase 5 pathways are a subset of the red avenues. 6 Q Okay. Did you see any evidence -- 7 withdrawn. 8 And so would it be accurate to put in 9 between the left-hand side of DV360, TTD, other 10 DSPs, and Google Ads and the right-hand side blue 11 bubble FAAs the advertising agencies through which 12 FAAs purchase ads? 13 MR. BRISKIN: Objection to form. 14 THE WITNESS: I think this question was 15 similar to the previous question you asked me 16 before. Figure 3 just is different from -- I'm 17 sorry, Figure 4 is different from Figure 3 in that 18 it breaks out more binders and it shows the red 19 arrows, which are the FAA purchase pathways, of 20 which the -- sorry, it shows the red arrows, which 21 are the FAA purchase avenues, of which the FAA 22 purchase pathways are a -- are a subset. So that | Page 66 | Page 68 1 yourself and Mr. Chu. That's what I mean. 2 Imagine yourself to be an FAA and Mr. Chu being 3 Google. 4 Is there any other entity between the 5 FAA and Google in the course of purchasing ads 6 that you saw? 7 MR. BRISKIN: Objection to form. 8 THE WITNESS: So I'm not -- sorry, I'm 9 not -- I'm not sure the -- the seating -- the 10 hypothetical -- or it's not hypothetical, but the 11 seating diagram really helps me understand your 12 question. 13 Again, the FAAs and -- the FAAs 14 purchased display advertising from Google and, as 15 I testified earlier, that the FAAs used ad 16 agencies to do so. 17 BY MS. GOODMAN: 18 Q Okay. And by using the ad agencies to 19 do so, is it accurate that the ad agencies sit 20 between the FAAs and Google? 21 MR. BRISKIN: Objection to form. 22 THE WITNESS: Again, I'm not sure what |
| 1 I -- I -- I -- I think you're asking a very 2 similar question with regard to Figure 3 and 3 Figure 4. I don't -- I would have the same 4 answer. 5 BY MS. GOODMAN: 6 Q Okay. And it's accurate that the FAAs 7 purchased display ads from Google using various ad 8 agencies, correct? 9 A Yes. 10 Q Did you see any evidence that FAAs 11 purchased display ads directly from Google? 12 MR. BRISKIN: Objection to form. 13 THE WITNESS: Could you clarify what you 14 mean by "directly"? 15 BY MS. GOODMAN: 16 Q With no other entity sitting in between 17 the FAA and Google. 18 MR. BRISKIN: Objection to form. 19 THE WITNESS: What -- what do you -- can 20 you clarify what you mean by "sitting in between"? 21 BY MS. GOODMAN: 22 Q Well, Mr. Briskin is sitting in between | Page 67 | Page 69 1 you mean by "sit between." 2 BY MS. GOODMAN: 3 Q So you can't answer the question? 4 A I think you'd have to clarify it for me. 5 Q Okay. What's your understanding of the 6 word "directly"? 7 MR. BRISKIN: Objection to form. 8 THE WITNESS: I -- I -- it depends on 9 the context. 10 BY MS. GOODMAN: 11 Q Can you give me a dictionary definition 12 of the word "directly"? 13 A Probably not without the dictionary. 14 Q Okay. 15 A I'm sorry, just -- I -- I wasn't 16 prepared on dictionary definitions today. 17 Q Okay. Did you see any evidence that the 18 FAAs paid money directly to Google? 19 MR. BRISKIN: Objection to form. 20 THE WITNESS: Again, can you clarify 21 what you mean by "directly"? 22 BY MS. GOODMAN: |

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|---|---|
| <p>1 Q Dollars went from an FAA directly to 2 Google.</p> <p>3 MR. BRISKIN: Objection to form.</p> <p>4 THE WITNESS: So let me -- let me -- let 5 me state it this way: So what I saw in the 6 payment process was that Google invoiced the -- 7 Google invoiced the ad agencies and the ad 8 agencies invoiced the FAAs and the FAAs paid 9 100 percent of the charges invoiced by Google.</p> <p>10 VIDEO TECHNICIAN: Sorry, ma'am, it 11 picks up when you're touching the microphone.</p> <p>12 THE WITNESS: Oh, sorry. I've probably 13 just got a nervous habit there. Apologies. Do I 14 need to say that again?</p> <p>15 VIDEO TECHNICIAN: No, you're fine.</p> <p>16 THE WITNESS: Okay.</p> <p>17 BY MS. GOODMAN:</p> <p>18 Q And so in what you saw, if I'm 19 understanding you correctly, Google invoiced the 20 ad agencies and the ad agencies invoiced the FAAs, 21 correct?</p> <p>22 A Yes.</p> | <p>1 A I'm -- I'm -- I'm trying to actually 2 understand what you mean by the difference between 3 payment and purchase because you -- you asked a 4 question about purchase, you asked a question 5 about -- and I clarified with regard to payment. 6 And -- and so if you could clarify what you mean 7 by "purchase."</p> <p>8 Q I want to use --</p> <p>9 A I don't want to have a 10 misunderstanding --</p> <p>11 Q I agree.</p> <p>12 A -- between the two of us.</p> <p>13 Q I agree.</p> <p>14 You used the word "purchase" throughout 15 your report, so I want to use your understanding 16 of purchase and I want to use your understanding 17 of payment, which is also in your report.</p> <p>18 So please tell me what you understand to 19 mean the difference between those two words as 20 used in your report and we will have that common 21 understanding.</p> <p>22 A So as I testified earlier, my</p> |
| <p>1 Q Okay. And so in what you saw, can we 2 have the common understanding that the ad 3 agencies, therefore, sit between Google and the 4 FAAs?</p> <p>5 MR. BRISKIN: Objection to form.</p> <p>6 BY MS. GOODMAN:</p> <p>7 Q That's what I mean by "sit between." 8 Okay?</p> <p>9 A Are you referring to the payment process 10 specifically when you refer to -- to "sit 11 between"?</p> <p>12 Q I'm referring to both the payment and 13 purchasing process.</p> <p>14 MR. BRISKIN: Objection to form.</p> <p>15 THE WITNESS: I reviewed the -- I 16 reviewed the payment process.</p> <p>17 BY MS. GOODMAN:</p> <p>18 Q Did you review the purchasing process?</p> <p>19 A What do you mean by "purchasing 20 process"?</p> <p>21 Q What's your understanding of the 22 difference between payment and purchase?</p> | <p>1 understanding is that based on what I saw, the 2 FAAs purchased an advertising from Google. With 3 regard to the payment flow process specifically, 4 Google invoiced the ad agencies and the ad 5 agencies invoiced the FAAs and the payments 6 reflect the invoiced parties.</p> <p>7 MS. GOODMAN: Move to strike as not 8 responsive.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q My question to you is simply what do you 11 understand the difference in meaning of the words 12 "payment" and "purchase" to be in your report?</p> <p>13 A Purchase in my mind is who is -- it's 14 who is -- it's -- it's the advertiser buying the 15 ad inventory. Payment refers, in -- in my mind, 16 to the physical flow of funds.</p> <p>17 Q Okay. So did you see any evidence that 18 an FAA buys ad inventory directly from Google?</p> <p>19 MR. BRISKIN: Objection to form.</p> <p>20 THE WITNESS: As I stated earlier, 21 the -- the FAAs purchased advertising from -- they 22 purchased services from Google.</p> |

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| Page 74 | Page 76 |
|---|---|
| 1 BY MS. GOODMAN: | 1 of those pathways the FAAs use ad agencies to make |
| 2 Q Yes. | 2 their purchases. |
| 3 A I'm not -- I'm not -- again, I'm not | 3 Q And so it's accurate that, for purposes |
| 4 sure what you mean by "directly." I think I've -- | 4 of the damages which you calculate in this case, |
| 5 I think I've stated my understanding of both | 5 there is no instance of an FAA buying ad inventory |
| 6 the -- of who's doing the purchasing and who's | 6 without the use of an advertising agency? |
| 7 doing the paying in terms of the payment flow | 7 A Yes. |
| 8 process. | 8 MS. GOODMAN: We can take a break. |
| 9 Q It is accurate that some of the ad | 9 MR. BRISKIN: Thanks. |
| 10 agencies used by FAAs engaged other ad agencies to | 10 VIDEO TECHNICIAN: Off the record at |
| 11 execute the FAAs' ad purchases, correct? | 11 11:38. |
| 12 A Yes. | 12 (Brief recess.) |
| 13 MR. BRISKIN: Can we take a break in the | 13 VIDEO TECHNICIAN: Back on the record at |
| 14 next five minutes, whenever it's a good breaking | 14 11:53. |
| 15 point? | 15 BY MS. GOODMAN: |
| 16 MS. GOODMAN: Yeah. | 16 Q Ms. Lim, if you could turn to Exhibit 1, |
| 17 BY MS. GOODMAN: | 17 Appendix E, paragraph 44. |
| 18 Q Ms. Lim, did you see any evidence of an | 18 A On page 17? |
| 19 FAA buying ad inventory without the use of an | 19 Q Yes. |
| 20 advertising agency? | 20 A I'm there. |
| 21 A It's possible that that happened. I was | 21 Q The first sentence reads, "The FAAs |
| 22 asked to focus my damages analysis -- or | 22 purchased display ads from Google using various ad |
| Page 75 | Page 77 |
| 1 Dr. Respass was asked to focus his damages | 1 agencies." |
| 2 analysis on the specific F- -- FAA purchase | 2 Do you see that? |
| 3 pathways in the -- in the Respass report. | 3 A Yes. |
| 4 In -- in those pathways the FAAs used ad | 4 Q For purposes of your damages |
| 5 agencies to make their purchases of Google | 5 computation, did you see any evidence that any FAA |
| 6 services, but it's -- it's -- it's possible that | 6 directed the advertising agency to purchase ads |
| 7 I -- I -- so, for example, what I'm -- let me | 7 using Google products or services? |
| 8 just -- what I'm thinking about is, as I mentioned | 8 MR. BRISKIN: Objection to form. |
| 9 in my report, there are a number of blank agency | 9 THE WITNESS: I'm not sure what you mean |
| 10 IDs and I don't know in those circumstances | 10 by "directed." |
| 11 where -- whether an ad agency was involved or not | 11 BY MS. GOODMAN: |
| 12 and I -- I can't recall -- no, no. Sorry. Strike | 12 Q Did you see any evidence that any FAA |
| 13 that. I do recall that there are FAAs associated | 13 told their advertising agency please purchase ads |
| 14 with those blank agency IDs. | 14 using Google products or services? |
| 15 Q Okay. So for each of the 15 purchase | 15 MR. BRISKIN: Objection to form. |
| 16 pathways included in your damages analysis, did | 16 THE WITNESS: I wasn't -- I was focused |
| 17 you see any evidence of any of the FAAs within | 17 on the payment flow process, so I -- and I -- let |
| 18 those purchase pathways buying ad inventory | 18 me -- let me start over. |
| 19 without the use of an advertising agency? | 19 So in the course of my work -- work, as |
| 20 A By definition, those purchase pathways | 20 I mentioned before, I reviewed probably |
| 21 are as I've described them in Figures 8 through 10 | 21 thousands -- probably thousands of -- of documents |
| 22 of the opening report and each of those -- in each | 22 in this matter and I don't recall the contents of |

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| <p>1 each and every one of those. What I -- what I 2 focused on was the payment flow process. 3 So with regard to your question, I 4 think -- I think my answer is I don't know. I 5 don't -- I don't remember.</p> <p>6 BY MS. GOODMAN:</p> <p>7 Q Okay. So with regard to my question, 8 you don't remember whether you saw any evidence 9 that any FAA directed their advertising agency to 10 use Google products or services to purchase ads; 11 is that accurate?</p> <p>12 A I think --</p> <p>13 MR. BRISKIN: Objection to form.</p> <p>14 THE WITNESS: I think you modified your 15 question to say -- when you clarified, you said 16 did I see any evidence that an FAA had told an ad 17 agency. And if -- if -- if that's how you're -- 18 what you mean by "directed," I don't recall one 19 way or the other.</p> <p>20 BY MS. GOODMAN:</p> <p>21 Q Okay. That is what I mean by 22 "directed."</p> | <p>1 THE WITNESS: What do you mean by 2 "instructed"? Do you mean told again?</p> <p>3 BY MS. GOODMAN:</p> <p>4 Q What do you understand the word 5 "instructed" to mean?</p> <p>6 A It depends on the context.</p> <p>7 Q In the context of my sentence, how do 8 you interpret it?</p> <p>9 A I think that's what I'm asking you, 10 if -- if you're -- if you mean told.</p> <p>11 Q I just want to understand how you 12 under- -- how you interpret the word "instructed" 13 in my question.</p> <p>14 What do you think I mean?</p> <p>15 Let me withdraw that.</p> <p>16 What do you understand the word 17 "instructed" to mean in my question?</p> <p>18 A Told.</p> <p>19 Q Okay. Did you see any evidence in this 20 case that any FAA instructed their advertising 21 agency to use Google products or services to 22 purchase ads?</p> |
| Page 79 | Page 81 |
| <p>1 So with regard to my question, you don't 2 remember whether you saw any evidence that any FAA 3 directed their advertising agency to use Google 4 products or services to purchase -- to purchase 5 ads; is that correct?</p> <p>6 MR. BRISKIN: Objection to form.</p> <p>7 THE WITNESS: If -- if in that question 8 you -- you mean to replace "directed" with "told," 9 then I don't recall one way or the other.</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q I said that is what I mean by 12 "directed," so I would like to get a clear answer 13 to my question.</p> <p>14 A Sorry, I thought I was being -- being 15 clear.</p> <p>16 Q There's no question pending.</p> <p>17 A Apologies.</p> <p>18 Q Did you see any evidence in this case 19 that any FAA instructed their advertising agency 20 to use Google products or services to purchase 21 ads?</p> <p>22 MR. BRISKIN: Objection to form.</p> | <p>1 MR. BRISKIN: Objection to form.</p> <p>2 THE WITNESS: Could you -- one -- one 3 more time. Sorry.</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q Did you see any evidence in this case 6 that any FAA instructed their advertising agency 7 to use Google products or services to purchase 8 ads?</p> <p>9 MR. BRISKIN: Objection to form.</p> <p>10 THE WITNESS: Sorry, I -- I just want to 11 be clear. Again, it's -- it's the -- it's the FAA 12 is purchasing ads and -- and so -- so I think my 13 answer is the -- again, I'm not sure how that 14 question is different from your previous question, 15 which -- which I understand you to mean did I see 16 any evidence in this matter where the -- where an 17 FAA told an ad agency to use Google with regard to 18 the FAAs' purchase -- purchases of Google's 19 services.</p> <p>20 And my -- so my answer would be that, 21 again, I've reviewed thousands of documents in 22 this matter and I don't recall the -- the content</p> |

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| <p>1 of each and every one of them, so I may have seen 2 something, I -- I may not. I -- I don't recall 3 one way or the other. It was not something I 4 focused on.</p> <p>5 MS. GOODMAN: Move to strike.</p> <p>6 BY MS. GOODMAN:</p> <p>7 Q It's accurate that the FAAs purchased 8 display ads from Google using various ad agencies, 9 correct?</p> <p>10 MR. BRISKIN: Objection to form.</p> <p>11 Oh, sorry.</p> <p>12 THE WITNESS: Yes.</p> <p>13 BY MS. GOODMAN:</p> <p>14 Q Okay. The FAAs used the various ad 15 agencies how to purchase ads from Google?</p> <p>16 MR. BRISKIN: Objection to form.</p> <p>17 THE WITNESS: I'm not sure what you mean 18 by "how."</p> <p>19 BY MS. GOODMAN:</p> <p>20 Q How did the various ad agencies 21 participate in the process of purchasing display 22 ads from Google for the FAAs?</p> | <p>1 particular contract was to provide overall context 2 to, for example, an FAA purchase pathway. It 3 wasn't -- I wasn't focused on the -- I wasn't 4 focused on what particular activities the -- the 5 ad agencies did.</p> <p>6 Q Okay. So sitting here today, do you 7 have any understanding of how the ad agencies 8 participate in the process of purchasing display 9 ads from Google for the FAAs?</p> <p>10 And I'm not asking for what your 11 understanding is. I'm simply asking whether you 12 have an understanding of how they participate.</p> <p>13 A The -- the ad agencies facilitate the 14 FAAs' purchases.</p> <p>15 Q Okay. Do you know how the FAAs 16 facilitate the ad agencies -- the FAAs' purchases?</p> <p>17 A Again, I didn't focus on exactly what 18 activities they did.</p> <p>19 Q Okay. So do you have an understanding 20 of how the ad agencies facilitate the FAAs' 21 purchases?</p> <p>22 A I don't have a detailed understanding.</p> |
| Page 83 | Page 85 |
| <p>1 A So my work focused on the payment flow 2 process. I wasn't focused on the -- I wasn't 3 focused on exactly what the ad agencies did in 4 facilitating the FAAs' purchases of Google 5 services.</p> <p>6 Q Okay. Paragraph 44 of Appendix E, page 7 17, the sentence I just read is from that and it 8 cites to two documents in Exhibit 26 -- footnote 9 26.</p> <p>10 Did you review those two documents cited 11 in footnote 26?</p> <p>12 A Yes.</p> <p>13 Q Did you come away with an understanding 14 of how the ad agencies participate in the process 15 of purchasing display ads from Google?</p> <p>16 A So a couple of clarifications. The -- I 17 know there are two Bates stamps in footnote 26. I 18 think it's actually the same document.</p> <p>19 The -- the document, as it's 20 noted in the footnote, is a contract between the 21 Air Force and GSD&M.</p> <p>22 I was focused on -- my review of this</p> | <p>1 Q Do you have an understanding?</p> <p>2 A Yes.</p> <p>3 Q What is your understanding of how the 4 FA- -- how the ad agencies facilitate the FAAs' 5 purchases?</p> <p>6 A The -- the FAAs facilitate the FAAs' 7 purchases -- for example, I believe that -- 8 that -- that they're the ones that log in, so to 9 speak, to Google Ads or DV360.</p> <p>10 Q And what is your understanding based on 11 that the ad agencies are the ones who log in, so 12 to speak, to Google Ads or DV360?</p> <p>13 A I -- I can't remember where I gained 14 that understanding.</p> <p>15 Q Okay. And it is your understanding 16 sitting here today that Google sends invoices to 17 ad agencies, correct?</p> <p>18 A Yes.</p> <p>19 Q And it is your understanding sitting 20 here today that Google -- that within your damages 21 calculations Google only sends invoices to ad 22 agencies, not directly to the FAA, correct?</p> |

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| 1 MR. BRISKIN: Objection to form. | 1 from an advertising agency, not from the FAA, but |
| 2 THE WITNESS: One more time, please. | 2 evidence of an advertising agency paying money to |
| 3 BY MS. GOODMAN: | 3 Google? What payment data are you referring to? |
| 4 Q Within your damages calculations, the | 4 A Perhaps it would be helpful to -- let me |
| 5 transactions within your damages calculations, is | 5 just point that -- let me go to my Appendix E and |
| 6 it accurate that for all of those purchases Google | 6 I -- I will -- well, I will go there. |
| 7 sent invoices to an ad agency, not to the FAA? | 7 So, for example -- |
| 8 MR. BRISKIN: Objection to form. | 8 Q Can you -- I'm sorry to interrupt, but |
| 9 THE WITNESS: Yes. | 9 can you just identify what page you're looking at? |
| 10 BY MS. GOODMAN: | 10 A I'm in -- I'm on pages 158 and 159. |
| 11 Q And for all of the transactions within | 11 Q Thank you. |
| 12 your damages calculations, did you see any | 12 Go ahead. |
| 13 evidence that an FAA transmitted money directly to | 13 A So, for example, in the [REDACTED] |
| 14 Google? | 14 data I saw evidence of cuts being check -- or |
| 15 MR. BRISKIN: Objection to form. | 15 checks being cut from an ad agency to Google. |
| 16 THE WITNESS: With regard to the payment | 16 Q Okay. And is it accurate that for no |
| 17 flow process, what I saw is that the FAAs cut | 17 other of the payment purchase pathways reflected |
| 18 checks to the ad agencies and the ad agencies cut | 18 in your Appendix E do you include any evidence |
| 19 checks to Google such that -- | 19 that an ad agency cut a check to Google? |
| 20 BY MS. GOODMAN: | 20 A I'd -- I'd have to go through each and |
| 21 Q What evidence -- | 21 every one. I don't -- I don't recall specifically |
| 22 A -- such that in the end the FAAs paid | 22 the -- there were many invoices and much payment |
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| 1 100 percent of the charges -- of Google's charges. | 1 data that I looked at. I just don't recall |
| 2 Q What evidence did you see that ad | 2 specifically -- |
| 3 agencies cut checks to Google? | 3 Q Okay. |
| 4 A That would be in my Appendix E to the | 4 A -- in terms of -- I -- I recall on -- |
| 5 opening report. | 5 for USPS we got a quite fulsome dataset, but I |
| 6 Q What kinds of documents did you believe | 6 just -- I just don't recall specifically with |
| 7 were sufficient evidence to form the belief that | 7 regard to other pathways. |
| 8 the ad agencies cut checks to Google? | 8 Q If you saw payment data showing payments |
| 9 MR. BRISKIN: Objection to form. | 9 from an advertising agency to Google, would that |
| 10 THE WITNESS: That's -- that's my | 10 be reflected in your Appendix E? |
| 11 understanding from the payment flow process. | 11 MR. BRISKIN: Objection to form. |
| 12 BY MS. GOODMAN: | 12 THE WITNESS: It would be reflected in |
| 13 Q And I'm asking what kinds of documents | 13 my Documents Relied Upon list, the documents that |
| 14 is your understanding based on. I'm not asking | 14 I relied upon. |
| 15 for a specific document, but what kinds of things | 15 BY MS. GOODMAN: |
| 16 did you see that lead you to believe the -- or | 16 Q But it wouldn't be in Appendix E? |
| 17 leads you to the opinion that the ad agency cut a | 17 A Appendix E is a -- are examples of |
| 18 check to Google? | 18 walk-throughs that I performed with regard to the |
| 19 A Is -- it would be, for example, the | 19 payment process. Appendix E includes documents |
| 20 payment data and invoices that are listed in | 20 related to those walk-throughs. But it's possible |
| 21 Appendix E. | 21 that I saw additional payment data outside of |
| 22 Q What payment data did you see from an -- | 22 Appendix E. |

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| <p>1 Q And just for the record, when you say 2 "Appendix E," you're talking about Appendix E to 3 the initial Respess report, correct? 4 A Yes. 5 Q And Appendix E to your rebuttal report 6 is, in fact, the initial Respess report, correct? 7 A Corrected for errata. 8 Q Yes. 9 A Yes. It's rather confusing. 10 Q Okay. So could we talk about Appendix E 11 to the Respess report in this deposition as 12 Appendix E/E so we know what we're talking about? 13 A Wait, wait, wait, wait. What do you 14 want to call it? Wait. Sorry? 15 Q Withdrawn. 16 MR. BRISKIN: Was that a joke? Appendix 17 2. 18 BY MS. GOODMAN: 19 Q Did you see any evidence in this case 20 for purposes of your damages calculation that any 21 FAA paid Google directly for the use of DV360? 22 MR. BRISKIN: Objection to form.</p> | <p>1 BY MS. GOODMAN: 2 Q May I -- 3 A -- US- -- 4 Q May I provide an understanding of -- let 5 me tell you my understanding of "directly" and 6 then maybe that will help you answer the question. 7 A Okay. 8 Q By "directly" I mean without the 9 intervention of somebody -- of a medium or an 10 agent. 11 So did you see any evidence that any FAA 12 paid Google directly for the use of DV360 for the 13 transactions included in your damages 14 calculations? 15 MR. BRISKIN: Objection to form. 16 THE WITNESS: Let me -- I'm not sure how 17 that question is different from the questions you 18 asked before in which I referred you to the IPG 19 data for USPS. 20 BY MS. GOODMAN: 21 Q Okay. Let me try again. 22 Did you see any evidence that any FAA</p> |
| <p>1 THE WITNESS: Sorry, are we talking 2 about the FAA purchase pathways included in my 3 damages analysis? 4 BY MS. GOODMAN: 5 Q Yes, ma'am. 6 MR. BRISKIN: Same objection. 7 THE WITNESS: What I saw was that -- 8 again, what I saw was that Google invoiced ad 9 agency, ad agency invoiced FAA, FAA cut a check to 10 the ad -- ad agency, and ad agency cut a check to 11 Google. 12 BY MS. GOODMAN: 13 Q Okay. And so is it your testimony that 14 you did not see any evidence of Google paying 15 money -- strike that. Withdrawn. 16 Is it accurate that you did not see any 17 evidence that any FAA paid money to Google 18 directly for the use of DV360? 19 MR. BRISKIN: Objection to form. 20 THE WITNESS: Sorry, sorry, I'm not -- 21 I'm not sure what you mean by "directly," but we 22 just discussed in --</p> | <p>1 paid Google without the intervention of a medium 2 or an agent for the use of DV360 for the 3 transactions included in your damages calculation? 4 MR. BRISKIN: Objection to form. 5 THE WITNESS: So, again, my 6 understanding is that Google invoiced the ad 7 agencies, the ad agencies invoiced the FAAs, the 8 FAAs cut checks to the ad agencies, and the ad 9 agencies cut checks to Google. 10 BY MS. GOODMAN: 11 Q So based on what you saw, is it accurate 12 that the FAAs used a medium or an agent in order 13 to pay Google? 14 A I'm not sure what you mean by "medium" 15 or "agent." 16 The -- the payment process by which the 17 FAAs paid for their Google purchases -- the 18 payment process involves ad agencies. 19 Q And the ad agencies are in between -- in 20 that payment process they are in between Google 21 and the FAA, correct? 22 MR. BRISKIN: Objection to form.</p> |

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| <p style="text-align: right;">Page 94</p> <p>1 THE WITNESS: Again, I'm not sure what 2 you mean by "in between," but as I testified, 3 Google invoices the ad agencies, ad agencies 4 invoice the FAAs, FAA -- FAAs cut checks to the ad 5 agencies, ad agencies cut checks to Google. 6 BY MS. GOODMAN: 7 Q Okay. I'm going to ask one more time 8 just to see if you can answer the question as I've 9 posed it. And if you can't, that's fine and I'll 10 move to strike your answer and I'll call the 11 court -- I'll bring this to the judge. 12 But I'm asking a question to which 13 you're not providing an answer and that is are the 14 ad agencies in between the payment -- in the 15 payment -- withdrawn. 16 In the payment process which you have 17 described, do the ad agencies sit in between 18 Google and the FAA in order for Google to receive 19 money from the FAA? 20 MR. BRISKIN: Objection to form. 21 THE WITNESS: Again, I -- I think I've 22 explained my understanding of the process. I'm</p> | <p style="text-align: right;">Page 96</p> <p>1 would phrase it. I -- again, Google invoiced the 2 ad agencies, ad agencies invoiced the FAAs, FAAs 3 cut the checks to the ad agencies, ad agencies 4 cut -- cut the checks to Google. 5 MS. GOODMAN: Okay. I'll move to strike 6 as nonresponsive. 7 MR. BRISKIN: Can we take a quick break? 8 MS. GOODMAN: Sure. 9 VIDEO TECHNICIAN: Off the record at 10 12:21. 11 (Brief recess.) 12 VIDEO TECHNICIAN: Back on the record at 13 12:36. 14 BY MS. GOODMAN: 15 Q Ms. Lim, for every transaction that you 16 include in the purchase pathways underlying your 17 damages calculation, did you see any evidence that 18 Google paid for the ads without the use of an ad 19 agency? Withdrawn. 20 For every transaction that you include 21 in your purchase pathways underlying your damages 22 calculations, did you see any evidence that the</p> |
| <p style="text-align: right;">Page 95</p> <p>1 not sure what you mean by "sit in between," but I 2 think I've been very clear that the -- Google 3 invoices the ad agencies, ad agencies invoice the 4 FAA, FAAs cut the checks to the ad agencies, ad 5 agencies cut the checks to Google. 6 BY MS. GOODMAN: 7 Q And in the process which you have 8 described -- 9 A I mean, I -- I -- that's the way that I 10 would describe the process. 11 Q Okay. 12 A So -- sorry. 13 Q In the process which you have described 14 it is correct that the ad agencies are in between 15 Google and the FAAs, correct? 16 MR. BRISKIN: Objection to form. 17 THE WITNESS: You seem really -- you 18 seem really interested in "in between" and, again, 19 I'm not sure what "in between" means with regard 20 to your -- your question. 21 The way the invoicing process works 22 is -- is as I've explained it and that's the way I</p> | <p style="text-align: right;">Page 97</p> <p>1 FAA paid for the ads without the use of an ad 2 agency? 3 A No. 4 Q You relied on data produced by Google 5 which you refer to as RFP60 data, correct? 6 A Yes. 7 Q Did you understand that the RFP60 data 8 includes advertiser names which are input by 9 customers? 10 MR. BRISKIN: Objection to form. 11 THE WITNESS: May I review my report to 12 refresh my memory with regard to that? 13 BY MS. GOODMAN: 14 Q Sure. Which page of the report are you 15 thinking of? 16 A It's in the area of Figures 8 through 17 10. 18 So what I observed in the RFP60 data was 19 there was some nonstandardization in terms of the 20 information that was input into various fields 21 that -- I'm not sure why there's 22 nonstandardization -- non- -- nonstandardization.</p> |

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| <p>1 One reason could be because the -- the 2 advertisers or the ad agencies assisting the 3 advertisers could be putting in information into 4 those fields in a nonstandard way.</p> <p>5 Q Did you have an understanding of the 6 RFP60 data that the -- the information listed in 7 the advertiser fields is not verified, curated, or 8 cleaned by Google?</p> <p>9 MR. BRISKIN: Objection to form.</p> <p>10 THE WITNESS: I do not have an 11 understanding of the process by which Google vets 12 or doesn't vet the information that may be input 13 either by Google or by others into its databases.</p> <p>14 BY MS. GOODMAN:</p> <p>15 Q Okay. Would it be important to you for 16 purposes of your analysis to know whether the 17 information for the advertiser identities within 18 the RFP60 data is not verified, curated, or 19 cleaned by Google?</p> <p>20 MR. BRISKIN: Objection to the form.</p> <p>21 THE WITNESS: Which field in particular 22 are you talking about?</p> | <p>1 A Page 17? Sorry. 2 Q Yes. 3 Do you see paragraph 45? 4 A I do. 5 Q Okay. You write, "I identified FAAs in 6 the RFP60 data and the TTD data and then 7 identified specific combinations of FAAs and ad 8 agencies."</p> <p>9 My question is what did you do to 10 identify the FAAs in the RFP60 data?</p> <p>11 A So that's described in the rest of the 12 paragraph.</p> <p>13 Q So you see a bunch of fields in the 14 RFP60 data, and you referred to them as advertiser 15 identifier variables, and then you used those 16 variables to identify the FAAs.</p> <p>17 My question is how do you use the 18 variables to identify the FAAs?</p> <p>19 MR. BRISKIN: Objection to form.</p> <p>20 THE WITNESS: So my process was that, as 21 I described in my report, I first arrived at a -- 22 a bucket of advertisers with FAA-sounding words in</p> |
| <p>1 BY MS. GOODMAN:</p> <p>2 Q The fields listing the name of the 3 advertiser customer.</p> <p>4 MR. BRISKIN: Objection to form.</p> <p>5 THE WITNESS: So the -- can you ask the 6 question one more time? Sorry.</p> <p>7 BY MS. GOODMAN:</p> <p>8 Q Would it be important for you to know 9 that the -- the fields including names of the 10 advertising customer in RFP60 data is not 11 verified, curated, or cleaned by Google?</p> <p>12 MR. BRISKIN: Objection to the form.</p> <p>13 THE WITNESS: The -- the -- no.</p> <p>14 BY MS. GOODMAN:</p> <p>15 Q Why not?</p> <p>16 MR. BRISKIN: Same objection.</p> <p>17 THE WITNESS: I didn't need to focus on 18 the process of Google vetting information in the 19 advertiser field.</p> <p>20 BY MS. GOODMAN:</p> <p>21 Q In paragraph 45 of Appendix E on page 17 22 of the Respass initial report --</p> | <p>1 the advertiser identifier variables, and -- and 2 this is described in my footnote 28, and I then 3 limited my damages analysis to advertiser 4 identi- -- identifier variables and, in fact, FAA 5 purchase pathways, which I understand the United 6 States is seeking damages for.</p> <p>7 BY MS. GOODMAN:</p> <p>8 Q Okay. So are the advertiser identifier 9 variables, which are within your purchase pathways 10 and which are thus within your damages 11 calculation, those were all identified by the 12 United States; is that right?</p> <p>13 MR. BRISKIN: Objection to form.</p> <p>14 THE WITNESS: I'm not -- I'm not sure I 15 would quite phrase it that way. Let me -- let me 16 try again.</p> <p>17 So I reviewed the RFP60 database and I 18 saw FAA-sounding words in the advertiser 19 identifier variables and -- and then -- so that's 20 like a bigger bucket -- and then the United States 21 instructed me to limit my damages analysis to a 22 smaller bucket of FAA purchase pathways.</p> |

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| <p>1 report which identifies 155 pathways for potential 2 inclusion in your damages calculations.</p> <p>3 A I'll take your representation that 4 that's the number.</p> <p>5 Q Okay. And of those 155 pathways in your 6 backup to Figure 11, it's accurate you exclude 131 7 pathways at the United States' request, correct?</p> <p>8 A I -- I'll take your representation on 9 the -- on the math. There are pathways that I 10 excluded.</p> <p>11 There are pathways that I included 12 because the United States is seeking damages on 13 those pathways and there are pathways that I 14 excluded because I understand the United States is 15 not seeking damages on those pathways.</p> <p>16 Q Well, there are pathways that you -- 17 that the United States --</p> <p>18 A So --</p> <p>19 Q -- asked you to -- excuse me, my 20 question --</p> <p>21 A Sorry.</p> <p>22 Q -- was not complete.</p> | <p>1 VIDEO TECHNICIAN: Back on the record at 2 2:07.</p> <p>3 BY MS. GOODMAN:</p> <p>4 Q Ms. Lim, did the United States give you 5 any facts upon which you relied in support of your 6 exclusion of certain purchase pathways from your 7 report?</p> <p>8 A No.</p> <p>9 Q Okay. Did the United States tell you to 10 assume anything for purposes of your report upon 11 which you relied in excluding the certain purchase 12 pathways that the United States asked you to 13 exclude?</p> <p>14 A That was a long one. Could you do that 15 one again? Sorry.</p> <p>16 Q Did you rely on any assumptions provided 17 by the United States as to why certain purchase 18 pathways were excluded?</p> <p>19 A No.</p> <p>20 Q Did you do any analysis to confirm 21 whether it was proper to exclude certain FAA purchase pathways from your damages calculation?</p> |
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| <p>1 A Sorry.</p> <p>2 Q I'll restart the question.</p> <p>3 There are pathways -- there are certain 4 FAA purchase pathways that the United States asked 5 you to exclude, correct?</p> <p>6 A Yes.</p> <p>7 Q Okay. And there are 131 pathways -- FAA 8 purchase pathways that the United States asked you 9 to exclude, correct?</p> <p>10 A I'm happy to take your representation on 11 the -- the number.</p> <p>12 Q Okay. Did the United States tell you 13 any facts as to why they wanted those pathways 14 excluded?</p> <p>15 MR. BRISKIN: Objection. I'm going to 16 instruct the witness not to answer pursuant to the 17 expert stipulation.</p> <p>18 MS. GOODMAN: Can we go off the record?</p> <p>19 MR. BRISKIN: Sure.</p> <p>20 VIDEO TECHNICIAN: We're going off the 21 record at 2:05.</p> <p>22 (Brief recess.)</p> | <p>1 MR. BRISKIN: Objection to form.</p> <p>2 THE WITNESS: I'm not sure what you mean 3 by "proper," but it would be -- my damages 4 calculations include the FAA purchase pathways for 5 which the United States is seeking damages and it 6 seems reasonable to me that therefore I wouldn't 7 be calculating damages on pathways that the United 8 States is not seeking damages for.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q Okay. Did you do any analysis to figure 11 out whether the United States could seek damages 12 for the certain FAA purchase pathways that they 13 told you to exclude from your calculations?</p> <p>14 MR. BRISKIN: Objection to form.</p> <p>15 THE WITNESS: What do you mean by they 16 could seek damages for?</p> <p>17 BY MS. GOODMAN:</p> <p>18 Q Did you do any analysis to figure out 19 whether the United States -- withdrawn.</p> <p>20 Did you do any analysis to figure out 21 whether the pathways that the United States asked 22 you to exclude otherwise met the criteria for</p> |

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| <p>1 purchases for which the United States is seeking 2 damages?</p> <p>3 MR. BRISKIN: Objection to form.</p> <p>4 THE WITNESS: The -- the -- the criteria 5 for inclusion is that the United States is seeking 6 damages on included pathways in my damages 7 calculation.</p> <p>8 BY MS. GOODMAN:</p> <p>9 Q So is it your testimony that the 10 pathways for which the United States -- States is 11 seeking damages is a result of the United States' 12 instruction to you to include only those pathways?</p> <p>13 MR. BRISKIN: Objection to form.</p> <p>14 THE WITNESS: Maybe it would help if I 15 explain my -- the process because I think that 16 will answer the question.</p> <p>17 So in the course of my work I looked at 18 the RFP60 data, I identified unique combinations 19 of FAAs and ad agencies when there was information 20 about an ad agency. And then with regard to those 21 unique combinations, the United States asked me to 22 limit my damages analysis to those pathways for</p> | <p>1 assumptions the United States told you to make for 2 why those pathways are excluded?</p> <p>3 A No.</p> <p>4 Q I'm sorry, for why those amounts billed 5 in '19 and '20 were excluded.</p> <p>6 A No.</p> <p>7 Q And you excluded unknown ad agency 8 purchase pathways from your damages analysis, 9 correct?</p> <p>10 A Yes.</p> <p>11 Q And you excluded nine unknown purchase 12 pathways, correct?</p> <p>13 A I don't recall the -- the number.</p> <p>14 Q And you excluded the --</p> <p>15 A When you -- when you say "nine," are you 16 referring to a part of my report?</p> <p>17 Q I'm referring again to your Figure 11 18 backup.</p> <p>19 Have you reviewed that backup?</p> <p>20 A Yes.</p> <p>21 Q When did you last review the backup to 22 Figure 11?</p> |
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| <p>1 which they were seeking damages and, conversely, 2 the United States asked me to exclude those 3 pathways for which the United States is not 4 seeking damages.</p> <p>5 BY MS. GOODMAN:</p> <p>6 Q And the United States instructed you to 7 remove amounts available for services in 2019 and 8 2020 from damages for the USPS Universal McCann, 9 Matterkind, TTD pathway, correct?</p> <p>10 A Yes.</p> <p>11 Q And that's the USPS.2 pathway?</p> <p>12 A Hang tight. Sorry.</p> <p>13 Q Let me withdraw the question.</p> <p>14 For both USPS pathways, USPS.1 and 2, 15 the United States instructed you to remove amounts 16 billed for services in 2019 and 2020, correct?</p> <p>17 A Yes.</p> <p>18 Q Did you rely on any facts provided to 19 you by the United States for why you excluded 20 those pathways?</p> <p>21 A No.</p> <p>22 Q Did they -- did you rely on the</p> | <p>1 A I don't recall specifically.</p> <p>2 Q Okay. And the reason you excluded the 3 unknown ad agency purchase pathways is because you 4 could not confirm that the FAA paid the amounts 5 that Google charged for ad tech services, correct?</p> <p>6 MR. BRISKIN: Objection to form.</p> <p>7 THE WITNESS: One more time.</p> <p>8 BY MS. GOODMAN:</p> <p>9 Q The reason you excluded the unknown ad 10 agency purchase pathways is because you could not 11 confirm that the FAA paid amounts that Google 12 charged for ad tech services, correct?</p> <p>13 MR. BRISKIN: Objection to form.</p> <p>14 THE WITNESS: Correct.</p> <p>15 BY MS. GOODMAN:</p> <p>16 Q Other than the United States telling you 17 to exclude a pathway, is there any other reason 18 you excluded a purchase pathway from your damages 19 calculation?</p> <p>20 A Well, as we just discussed, there are 21 some unknown ad agency FAA purchase pathways which 22 I excluded.</p> |

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| <p>1 Q Okay. Other than the United States 2 telling you to exclude a pathway and your 3 excluding a pathway due to the ad agency being 4 unknown, is there any other reason you excluded a 5 purchase pathway from your damages calculation?</p> <p>6 A I -- I just want to be really clear 7 here. So in coming up with the list of unique FAA 8 purchase pathways, I'm referring to display 9 advertising or open web display advertising. It's 10 possible that there are other FAA purchase 11 pathways not included in my damages analysis that 12 relate to out-of-scope spending.</p> <p>13 Q Okay. In paragraph 47 you write, "I 14 refer to each unique combination of FAA, prime ad 15 agency, and (as applicable) sub ad agency as an 16 'FAA Purchase Pathway.'" So my question is in 17 reference to "FAA Purchase Pathway" as you use it 18 here in your report in paragraph 47.</p> <p>19 And my question is, other than the 20 United States telling you to exclude an FAA 21 purchase pathway and your excluding an FAA 22 purchase pathway due to the ad agency being</p> | <p>1 MR. BRISKIN: Objection to form. 2 THE WITNESS: Yes. 3 BY MS. GOODMAN: 4 Q Did you ask for data produced by other 5 third-party DSPs in the course of your work from 6 -- 7 MR. BRISKIN: Objection to form. 8 BY MS. GOODMAN: 9 Q -- your -- from the United States? 10 MR. BRISKIN: Objection to form. 11 THE WITNESS: I -- I asked for a lot of 12 data. I don't recall specifically the answer to 13 this question. 14 BY MS. GOODMAN: 15 Q Okay. Can we turn to Figure 6 of your 16 report. 17 It's accurate that Figure 6 reflects [REDACTED] [REDACTED] [REDACTED] [REDACTED] 22 A Yes.</p> |
| <p>1 unknown, is there any other reason you excluded 2 an -- an FAA purchase pathway from your damages 3 calculation?</p> <p>4 MR. BRISKIN: Objection to form. 5 THE WITNESS: No. 6 BY MS. GOODMAN: 7 Q Okay. Some of the FAA purchase pathways 8 for which you calculate damages include The Trade 9 Desk, correct?</p> <p>10 A Yes. 11 Q And The Trade Desk is a DSP, correct? 12 A Yes. 13 Q For what reason did you not include any 14 other DSP that is not Google in your damages 15 analysis?</p> <p>16 MR. BRISKIN: Objection to form. 17 THE WITNESS: I don't believe I had the 18 data to do that. 19 BY MS. GOODMAN: 20 Q Is it your understanding that no other 21 third-party DSP produced data from which you could 22 estimate damages?</p> | <p>1 MR. BRISKIN: Objection to form. 2 BY MS. GOODMAN: 3 Q Okay. And [REDACTED] [REDACTED], correct? 5 A Yes. 6 Q And [REDACTED] [REDACTED] right? 8 A Yes. 9 Q Do you know how many other [REDACTED] [REDACTED]? 11 A I don't recall. 12 Q Does it sound accurate to you that [REDACTED] [REDACTED] 15 MR. BRISKIN: Objection to form. 16 THE WITNESS: I don't recall one way or 17 the other. 18 BY MS. GOODMAN: 19 Q No reason to doubt my statement that 20 [REDACTED] 22 MR. BRISKIN: Objection to form.</p> |

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| 1 fractions are similar? | 1 THE WITNESS: I certainly didn't see |
| 2 MR. BRISKIN: Objection. I think that | 2 anything inconsistent. I may have seen |
| 3 really goes to a communication and I'll instruct | 3 something -- documents that were consistent and |
| 4 the witness not to answer. | 4 may not have cited that here. |
| 5 You can rephrase. | 5 BY MS. GOODMAN: |
| 6 MS. GOODMAN: I object to that. It's | 6 Q But you don't recall, do you? |
| 7 exactly what she just said. I just used her exact | 7 MR. BRISKIN: Objection to form. |
| 8 language. | 8 THE WITNESS: Sorry, I think I answered |
| 9 MR. BRISKIN: And you asked for a | 9 this question. Let me -- let me try again because |
| 10 communication and I instructed her not to answer. | 10 perhaps I wasn't clear. |
| 11 BY MS. GOODMAN: | 11 MS. GOODMAN: Move to strike. |
| 12 Q You don't recall seeing anything | 12 The question is withdrawn. |
| 13 provided to you that is consistent with the notion | 13 MR. BRISKIN: Can I take a quick break |
| 14 that the fractions are similar between TTD and | 14 in the next five minutes, please. |
| 15 AdX -- I'm sorry, TTD and DV360, correct? | 15 MS. GOODMAN: Let's take a break. |
| 16 MR. BRISKIN: Objection. Form. | 16 MR. BRISKIN: Off the record at 3:03. |
| 17 THE WITNESS: I'm -- I'm not sure how | 17 (Brief recess.) |
| 18 this question is different from your previous | 18 VIDEO TECHNICIAN: Back on the record at |
| 19 questions, but let me -- let me try again just so | 19 3:24. |
| 20 I can be clearer. | 20 BY MS. GOODMAN: |
| 21 MS. GOODMAN: Move to strike everything | 21 Q Ms. Lim, would you turn to paragraph 59 |
| 22 before she begins answering the question. | 22 of the Resps initial report, which is on page |
| <hr/> | |
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| 1 MR. BRISKIN: We'll take exception to | 1 23. |
| 2 that and all your other motions to strike which we | 2 A I'm there. |
| 3 think are not well founded. | 3 Q Okay. The last full sentence in that |
| 4 Is there a question pending? | 4 paragraph on this page says, "Amounts that Google |
| 5 BY MS. GOODMAN: | 5 refunds to its advertisers should not be included |
| 6 Q Are you going to answer the question? | 6 in the damages calculations and I therefore remove |
| 7 A Sorry, was there a question pending? | 7 them." |
| 8 Q Yes. | 8 Did I read that right? |
| 9 A Sorry, I did not -- | 9 A Yes. |
| 10 Q You don't recall seeing anything | 10 Q Why is it your opinion that amounts that |
| 11 provided to you that is consistent with the notion | 11 Google refunds to its advertisers should not be |
| 12 that the fraction of AdX take is similar between | 12 included in the damages calculations? |
| 13 TTD and DV360, correct? | 13 A If an advertiser -- for -- for example, |
| 14 MR. BRISKIN: Objection to form. | 14 if instead of paying a hundred dollars to purchase |
| 15 THE WITNESS: I don't recall one way or | 15 ads an advertiser pays \$99 to purchase ads, then I |
| 16 the other. | 16 would want the \$99 to be the input into my damages |
| 17 BY MS. GOODMAN: | 17 calculation. |
| 18 Q So therefore you don't recall seeing | 18 Q And why is that? |
| 19 anything that is consistent or inconsistent with | 19 A Because the advertiser paid \$99 instead |
| 20 the notion that the fraction of AdX take is | 20 of a hundred dollars. |
| 21 similar between TTD and DV360, correct? | 21 Q Okay. Is it important for purposes of |
| 22 MR. BRISKIN: Objection to form. | 22 calculating damages to account only for what was |

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| <p>1 actually paid by the person claiming damages?</p> <p>2 MR. BRISKIN: Objection to form.</p> <p>3 THE WITNESS: It depends on the facts</p> <p>4 and circumstances.</p> <p>5 BY MS. GOODMAN:</p> <p>6 Q Do you agree that overcharge damages are</p> <p>7 a measure of the difference between the price the</p> <p>8 plaintiff actually paid and the price that they</p> <p>9 would have paid in the but-for world?</p> <p>10 MR. BRISKIN: Objection to form.</p> <p>11 THE WITNESS: Yes.</p> <p>12 BY MS. GOODMAN:</p> <p>13 Q And do you agree the proper way to</p> <p>14 calculate damages in an antitrust case is to</p> <p>15 determine the difference between the prices</p> <p>16 plaintiff actually paid and the prices the</p> <p>17 plaintiff would have paid in the but-for world?</p> <p>18 MR. BRISKIN: Objection to form.</p> <p>19 THE WITNESS: I think it would depend on</p> <p>20 the facts and circumstances in the particular</p> <p>21 antitrust case.</p> <p>22 BY MS. GOODMAN:</p> | <p>1 I have calculated damages is the difference</p> <p>2 between the AdX take and the but-for take.</p> <p>3 MS. GOODMAN: Move to strike as</p> <p>4 nonresponsive.</p> <p>5 BY MS. GOODMAN:</p> <p>6 Q Do you agree that the typical measure of</p> <p>7 damages is the difference between the actual price</p> <p>8 paid and the presumed competitive price in the</p> <p>9 but-for world?</p> <p>10 MR. BRISKIN: Objection to form.</p> <p>11 THE WITNESS: I'm sorry, what was your</p> <p>12 question?</p> <p>13 BY MS. GOODMAN:</p> <p>14 Q Do you agree that the typical measure of</p> <p>15 damages is the difference between the actual price</p> <p>16 paid and the presumed competitive price in the</p> <p>17 but-for world?</p> <p>18 MR. BRISKIN: Objection to form.</p> <p>19 THE WITNESS: It depends on -- it --</p> <p>20 it -- the facts and circumstances.</p> <p>21 BY MS. GOODMAN:</p> <p>22 Q Are you measuring overcharge damages in</p> |
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| <p>1 Q Okay. How about in this antitrust case?</p> <p>2 Do you agree that in this antitrust case the</p> <p>3 proper way to calculate damages is to determine</p> <p>4 the difference between the prices the plaintiff,</p> <p>5 here the United States, actually paid and the</p> <p>6 prices the United States would have paid in the</p> <p>7 but-for world?</p> <p>8 MR. BRISKIN: Objection to form.</p> <p>9 THE WITNESS: So my damages calculation</p> <p>10 takes the difference between the AdX take rate --</p> <p>11 sorry, the AdX take and the but-for take in this</p> <p>12 circumstance.</p> <p>13 MS. GOODMAN: Okay. Move to strike as</p> <p>14 nonresponsive.</p> <p>15 BY MS. GOODMAN:</p> <p>16 Q Do you agree that in this case the way</p> <p>17 to actually calculate damages is to determine the</p> <p>18 difference between the prices the United States</p> <p>19 actually paid and the prices the -- the plaintiff</p> <p>20 would have paid in the but-for world?</p> <p>21 MR. BRISKIN: Objection to form.</p> <p>22 THE WITNESS: In -- in this case the way</p> | <p>1 this case?</p> <p>2 A Yes.</p> <p>3 Q Okay. And you agree that there's a</p> <p>4 difference between -- strike -- withdrawn.</p> <p>5 You agree that there can be a difference</p> <p>6 between an amount that is invoiced and an amount</p> <p>7 that is in fact paid, correct?</p> <p>8 A As a general matter, yes.</p> <p>9 Q Okay. And as a general matter, there</p> <p>10 can be differences between the amount invoiced and</p> <p>11 the amount paid for a variety of reasons, correct?</p> <p>12 A As a general matter.</p> <p>13 Q You agree as a general matter?</p> <p>14 A I do.</p> <p>15 Q Is one of the reasons that an invoice</p> <p>16 could be different from the amount paid because</p> <p>17 the person paying the invoice disputes the</p> <p>18 invoiced amount?</p> <p>19 A That could be one reason.</p> <p>20 Q Did you see any evidence in this case</p> <p>21 suggesting or showing that the invoice amount was</p> <p>22 not the amount paid?</p> |

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| 1 A No. | 1 case that the United States Army received a |
| 2 Q Did you review any testimony of any | 2 request for equitable adjustment from its ad |
| 3 federal agency advertiser in this case? | 3 agency because the ad agency exceeded its |
| 4 A Yes. | 4 authorized spending limit on advertising? |
| 5 Q Where is that listed in your report? | 5 MR. BRISKIN: Objection to form. |
| 6 A My Documents Relied Upon list is a list | 6 THE WITNESS: Again, the phrase -- what |
| 7 of documents that I relied upon in forming the | 7 was it -- equitable adjustment doesn't ring a |
| 8 opinions in my report. | 8 bell. |
| 9 In addition to the list of documents in | 9 BY MS. GOODMAN: |
| 10 the Documents Relied Upon list, there are many | 10 Q Okay. Are you aware of any evidence in |
| 11 other documents that I considered in forming my | 11 this case that the United States Army's |
| 12 conclusions and the FAA depositions would have | 12 advertising agency exceeded its authorized |
| 13 been amongst the documents I considered. | 13 spending limit on advertising? |
| 14 Q Okay. But you did not rely upon any FAA | 14 MR. BRISKIN: Objection to form. |
| 15 deposition testimony; is that accurate? | 15 THE WITNESS: That's not something I |
| 16 A I think that's right. | 16 focused on in my analysis. |
| 17 Q Did you review the deposition testimony | 17 BY MS. GOODMAN: |
| 18 of the United States Army? | 18 Q Okay. Are you aware of any evidence |
| 19 A Myself or my staff would have reviewed | 19 whether, as I've described, whether or not you |
| 20 that. | 20 focused on it? |
| 21 Q Did you review it? | 21 MR. BRISKIN: Objection to form. |
| 22 A So the way I think about my staff is | 22 THE WITNESS: Not sitting here today. |
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| 1 that they are my arms and legs, so to speak, and | 1 BY MS. GOODMAN: |
| 2 if -- if I've directed them to review it and | 2 Q And are you aware of any evidence that |
| 3 they've reviewed it, I mean, in my mind I've | 3 in the case where the United States Army's ad |
| 4 reviewed it. So I'm -- my -- I didn't personally | 4 agency exceeded its authorized spending limit, it |
| 5 review it if that -- if that's what you're asking | 5 was the advertising agency who had to pay the |
| 6 me, my staff would have reviewed it. | 6 digital ad vendors, not the Army? |
| 7 Q Okay. So you didn't personally review | 7 MR. BRISKIN: Objection to form. |
| 8 the Army testimony, correct? | 8 THE WITNESS: What I saw in my work in |
| 9 A I don't believe so. | 9 the performance of my walk-throughs of each FAA |
| 10 Q Are you familiar with the phrase | 10 purchase pathway was that all amounts charged by |
| 11 equitable -- "request for equitable adjustment"? | 11 Google were paid by the FAAs. |
| 12 A It doesn't ring a bell. | 12 MS. GOODMAN: I move to strike as |
| 13 Q So you aren't aware of the fact that in | 13 nonresponsive. |
| 14 this case the United States Army testified -- | 14 BY MS. GOODMAN: |
| 15 testified about how its ad agency exceeded its | 15 Q Are you aware of any evidence in this |
| 16 authorized spending limit on advertising? You | 16 case that the U.S. Army's ad agency exceeded its |
| 17 aren't aware of that, correct? | 17 authorized spending limit and thus the ad agency |
| 18 MR. BRISKIN: Objection to form. | 18 had to pay digital ad vendors, not the Army? |
| 19 THE WITNESS: Sorry, could you ask the | 19 MR. BRISKIN: Objection to form. |
| 20 question one more time? | 20 THE WITNESS: I guess what I'm getting a |
| 21 BY MS. GOODMAN: | 21 little hung up on is you say in your question that |
| 22 Q Are you aware of any evidence in this | 22 the ad agencies paid the vendor, such as Google, |

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| 1 BY MS. GOODMAN: | 1 A No. |
| 2 Q It was a better fit for what you were | 2 Q Without telling me what you discussed, |
| 3 doing? | 3 did you discuss Dr. Simcoe's deposition testimony |
| 4 MR. BRISKIN: Objection to form. | 4 with anybody? |
| 5 THE WITNESS: Yes. | 5 MR. BRISKIN: Objection to form. |
| 6 BY MS. GOODMAN: | 6 THE WITNESS: I'm not sure if that gets |
| 7 Q You calculated damages that would be | 7 into conferences -- substance of conversations |
| 8 owed to the United States by Google for a range of | 8 with counsel or my staff. |
| 9 AdX but-for take rate percentages, correct? | 9 BY MS. GOODMAN: |
| 10 A One more time. | 10 Q I'm not asking for the substance. I'm |
| 11 Q You calculated damages that would be | 11 asking you a yes or no question. |
| 12 owed to the United States by Google for a range of | 12 Did you discuss Dr. Simcoe's deposition |
| 13 AdX but-for take rate percentages, correct? | 13 testimony with anybody? |
| 14 MR. BRISKIN: Objection to form. | 14 MR. BRISKIN: Objection to form. |
| 15 THE WITNESS: Are you referring to | 15 THE WITNESS: Yes. |
| 16 something specific in my report? | 16 BY MS. GOODMAN: |
| 17 BY MS. GOODMAN: | 17 Q Okay. And you are aware that Dr. Simcoe |
| 18 Q Not that I can immediately recall. I'm | 18 does not opine that a 10 percent but-for take rate |
| 19 just asking if you calculated damages that would | 19 is appropriate on a stand-alone basis, correct? |
| 20 be owed to the United States by Google for a range | 20 MR. BRISKIN: Objection to form. |
| 21 of AdX but-for take rate percentages, correct? | 21 THE WITNESS: I'm -- I didn't read his |
| 22 MR. BRISKIN: Objection to form. | 22 deposition, so if you're referring to something he |
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| 1 THE WITNESS: Yes. | 1 said in his deposition, then I'm -- I wouldn't |
| 2 BY MS. GOODMAN: | 2 be -- I wouldn't be familiar with that. |
| 3 Q Okay. And one of those was 10 percent, | 3 BY MS. GOODMAN: |
| 4 right? | 4 Q I'm not referring to what he said in his |
| 5 A Yes. | 5 deposition. I'm asking are you aware that |
| 6 Q And one of those was 16.2 percent? | 6 Dr. Simcoe does not opine that a 10 percent |
| 7 A Yes. | 7 but-for take rate is an appropriate measure of a |
| 8 Q And one of those was 16.6 percent? | 8 but-for take rate? |
| 9 A Yes. | 9 MR. BRISKIN: Objection to form. |
| 10 Q And you understood that Dr. Simcoe | 10 THE WITNESS: Okay. So if -- I think if |
| 11 calculated a but-for take rate of 16.2 percent, | 11 you're asking me about what's in Dr. Simcoe's |
| 12 correct? | 12 reports, my understanding is that he did not -- he |
| 13 A Yes. | 13 estimated various but-for take rates and 10 |
| 14 Q And you understand he calculated a | 14 percent is not one of those take rates -- but -- |
| 15 but-for take rate of 16.6 percent, correct? | 15 but-for take rates. |
| 16 A Yes. | 16 BY MS. GOODMAN: |
| 17 Q And you understand Professor Simcoe did | 17 Q Okay. Are you aware that Professor |
| 18 not calculate a but-for take rate of 10 percent, | 18 Simcoe testified in deposition that a 10 percent |
| 19 correct? | 19 but-for take rate -- take rate is not a conclusion |
| 20 A Yes. | 20 he reaches about the take rate in the but-for |
| 21 Q Did you read Dr. Simcoe's deposition | 21 world? |
| 22 testimony? | 22 MR. BRISKIN: Objection to form. |

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| <p style="text-align: right;">Page 230</p> <p>1 THE WITNESS: As I just testified, I -- 2 I didn't read his deposition, so I don't know what 3 he said in it.</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q Okay. But you had conversations about 6 his deposition with individuals, so I'm just 7 asking if you have an awareness about what 8 Professor Simcoe testified in deposition, that he 9 is not offering an opinion that the but-for take 10 rate is 10 percent?</p> <p>11 MR. BRISKIN: Objection to form.</p> <p>12 BY MS. GOODMAN:</p> <p>13 Q Are you aware of that?</p> <p>14 A I -- I don't have that awareness.</p> <p>15 Q Okay. You have no opinion as to the 16 appropriateness of any of the but-for take rates 17 you apply in your damages calculation, correct?</p> <p>18 A I did not do an independent evaluation 19 of the but-for take rate.</p> <p>20 Q Okay. And you have no opinion as to the 21 appropriateness of any but-for take rate, correct?</p> <p>22 MR. BRISKIN: Objection to form.</p> | <p style="text-align: right;">Page 232</p> <p>1 A Not sitting here today. It's not 2 something I focused on.</p> <p>3 QOkay. Did the United States -- did you 4 rely on any facts communicated to you by the 5 United States in applying a 10 percent but-for 6 take rate in your calculations?</p> <p>7 A One more time.</p> <p>8 Q Did you rely on any facts communicated 9 to you by the United States in applying a 10 10 percent but-for take rate in your calculations?</p> <p>11 A No.</p> <p>12 QOkay. Let's turn to paragraph 56 of the 13 Respsess initial report.</p> <p>14 A Yes, I'm there.</p> <p>15 Q And you write in the first sentence, 16 "For each FAA Purchase Pathway except CMS.1, 17 CMS.2, NHTSA.1, and NHTSA.2, I selected a number 18 of transactions of open web display advertising 19 and confirmed that the FAA paid for those 20 transactions."</p> <p>21 Did I read that correctly?</p> <p>22 A Yes.</p> |
| <p style="text-align: right;">Page 231</p> <p>1 THE WITNESS: I do not.</p> <p>2 BY MS. GOODMAN:</p> <p>3 Q And so the United States instructed you 4 to use an alternative AdX but-for take rate of 5 10 percent, correct?</p> <p>6 A Yes.</p> <p>7 Q Are you aware of any facts that support 8 application of a 10 percent but-for take rate?</p> <p>9 MR. BRISKIN: I'll just instruct the 10 witness not to answer with regard to 11 communications with counsel, but you can answer.</p> <p>12 THE WITNESS: My understanding is that 13 the United States intends on presenting evidence 14 with regard to the 10 percent but-for take rate at 15 trial, but I haven't performed an independent 16 analysis of that 10 percent. I haven't, for 17 example, searched in databases looking for 18 10 percent.</p> <p>19 BY MS. GOODMAN:</p> <p>20 Q So you aren't personally aware of any 21 facts that would support application of that 22 but-for take rate?</p> | <p style="text-align: right;">Page 233</p> <p>1 Q You did not select transactions for the 2 CMS and NHTSA pathways to review in order to 3 confirm that the FAA paid for those transactions, 4 correct?</p> <p>5 MR. BRISKIN: Objection to form.</p> <p>6 THE WITNESS: I did not perform 7 walk-throughs of those FAA purchase pathways 8 because there was insufficient data/documents in 9 the record to do so.</p> <p>10 BY MS. GOODMAN:</p> <p>11 Q And so is it accurate that you were not 12 able to confirm that the FAAs paid for the 13 transactions reflected in the two CMS and two 14 NHTSA pathways?</p> <p>15 MR. BRISKIN: Objection to form.</p> <p>16 THE WITNESS: I was not able to do so.</p> <p>17 BY MS. GOODMAN:</p> <p>18 Q Did you attempt to verify that CMS or 19 NHTSA paid for the transactions reflected in those 20 four purchase pathways?</p> <p>21 MR. BRISKIN: Objection to form.</p> <p>22 THE WITNESS: The documents produced in</p> |

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| <p>1 the record did not -- were insufficient to perform 2 a walk-through as I did for the other purchase 3 pathways.</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q And so you didn't see any documents or 6 data in the record to show actual transmission of 7 payments from those FAAs to anybody; is that 8 accurate?</p> <p>9 MR. BRISKIN: Objection to form.</p> <p>10 THE WITNESS: No. No, that's not 11 accurate.</p> <p>12 BY MS. GOODMAN:</p> <p>13 Q Okay. What documents did you see in the 14 record that showed that payments were made from 15 those FAAs to an ad agency?</p> <p>16 MR. BRISKIN: Objection to form.</p> <p>17 THE WITNESS: I don't recall the exact 18 documents.</p> <p>19 BY MS. GOODMAN:</p> <p>20 Q Okay. But it's your testimony you saw 21 evidence in the record of payments going from CMS 22 to an ad agency?</p> | <p>1 THE WITNESS: It would have been during 2 the time that I was assisting Dr. Respess in 3 preparing his report.</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q Okay. And after you learned that you 6 would be testifying as an expert in this case, you 7 didn't do anything to check your recollection -- 8 to check the work that had been done prior to your 9 coming in as the testifying expert to figure out 10 what was insufficient about the data that we're 11 discussing?</p> <p>12 MR. BRISKIN: Objection to form.</p> <p>13 THE WITNESS: I wouldn't characterize it 14 that way. I was very involved with Dr. Respess 15 and Brattle staff during the preparation of his 16 report and there was lots of -- lots of checking 17 with regard to Dr. Respess' analyses and 18 conclusions and statements in his report.</p> <p>19 I felt -- I -- I felt comfortable with 20 adopting those analyses and conclusions given my 21 awareness of -- given my work with Dr. Respess and 22 awareness of the entire process, not just</p> |
| Page 235 | Page 237 |
| <p>1 A That is my recollection.</p> <p>2 Q Okay. And it's your testimony you saw 3 evidence in the record of payments going from 4 NHTSA to an ad agency?</p> <p>5 A Same answer. That's my recollection.</p> <p>6 Q So what was insufficient about what you 7 saw in the record in order to confirm that those 8 two FAAs paid for the transactions reflected in 9 the four purchase pathways we're discussing?</p> <p>10 A I don't -- I don't recall exactly what 11 was insufficient. The -- the process of each 12 walk-through requires at -- at least ad agency 13 invoices and FAA payments.</p> <p>14 My recollection is that there were -- 15 there was missing data in -- in one of those. I 16 don't recall exactly. I just recall that there 17 was insufficient data.</p> <p>18 Q When did you last look at the data 19 available to you in order to confirm whether CMS 20 or NHTSA paid for the transactions reflected in 21 the four purchase pathways we're discussing?</p> <p>22 MR. BRISKIN: Objection to form.</p> | <p>1 awareness but familiarity and -- and being part of 2 that process, including the checking process.</p> <p>3 BY MS. GOODMAN:</p> <p>4 Q Would Dr. Respess be able to tell me 5 what was insufficient about the data that -- such 6 that he could not confirm that the FAAs paid for 7 the transactions reflected in the four purchase 8 pathways we're discussing?</p> <p>9 MR. BRISKIN: Objection to form.</p> <p>10 THE WITNESS: I don't believe he would 11 be able to recall any better than I would. There 12 were hundreds, maybe thousands of invoices that we 13 reviewed and many different purchase pathways, 14 some of which are quite complex to do the 15 walk-throughs on.</p> <p>16 I recall that, again, there was missing 17 information in these pathways, but I don't recall 18 exactly -- the exact invoices, for example, that 19 were missing or the exact payment data on -- that 20 were missing.</p> <p>21 BY MS. GOODMAN:</p> <p>22 Q And it's accurate that for none of these</p> |

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| 1 purchase pathways does your report anywhere 2 identify payment data showing that the FAAs paid 3 for the transactions reflected in -- or included 4 within the CMS and NHTSA purchase pathways, 5 correct? | 1 Q Thirty-three of Figure 16. 2 A I'm there. 3 Q Okay. And for CMS your damages 4 calculations include \$8.4 million in AdX revenue, 5 correct? |
| 6 MR. BRISKIN: Objection to form. 7 THE WITNESS: One more time. 8 Sorry, I just hadn't thought of my 9 report that way. Go ahead. | 6 A You're looking at the 8478727? 7 Q Yes. 8 A I used the -- that amount in deriving my 9 damages amount. |
| 10 BY MS. GOODMAN: 11 Q There is no statement in your report 12 identifying payment data which shows CMS or NHTSA 13 paid for the transactions included within the CMS 14 and NHTSA purchase pathways, correct? | 10 Q Right. And you used the amount of 11 \$1.5 million approximately for NHTSA in deriving 12 your damages, correct? 13 A Yes. |
| 15 MR. BRISKIN: Objection to form. 16 THE WITNESS: I can't think of such a 17 statement or something in my report that lists 18 that sitting here today. | 14 Q Okay. And if you add 8.4 million to 15 1.5 million, it's approximately \$10 million, 16 correct? 17 A If you're asking me a math- -- 18 arithmetic question, that sounds about right. |
| 19 BY MS. GOODMAN: 20 Q Okay. In your -- 21 A It's not something that -- it's not 22 something that I relied upon. | 19 Q Okay. If you add the 8.478727 and the 20 1.588607, it's approximately \$10 million. 21 A What's 607? Wait. 22 Q 15- -- |
| Page 239 | Page 241 |
| 1 Q Okay. Appendix E -- 2 A I mean, that -- go ahead. 3 Q -- to Dr. Respess' initial report 4 includes walk-throughs for various FAA purchase 5 pathways. None of which are for CMS or NHTSA, 6 correct? 7 A That -- that is correct. 8 Just to be clear, so as I testified 9 before, I recall seeing some agency invoices 10 and -- some Google invoices, some agency invoices, 11 some FAA payment information. I didn't see 12 anything that was inconsistent with the idea that 13 the FAAs paid for their purchases. But I was not 14 able to complete walk-throughs and that's why 15 there are no walk-throughs for these transactions 16 included in Appendix E. | 1 A Where -- where -- maybe I'm just not 2 looking at the right thing. 3 Q All right. Withdrawn. 4 A I'm looking at -- 5 Q Withdrawn. 6 MR. BRISKIN: You went to a different 7 number. 8 THE WITNESS: Oh. 9 BY MS. GOODMAN: 10 Q The total CMS of 8,478,727 added to the 11 total of NHTSA of 1,588,607 equals 10,067,334, 12 correct? 13 MR. BRISKIN: Objection to form. 14 THE WITNESS: Again, if you're asking me 15 an arithmetic question, I'm -- I'm -- I'm happy to 16 take your representation about that. |
| 17 MS. GOODMAN: Okay. I'm going to move 18 to strike everything after "That is correct." 19 BY MS. GOODMAN: 20 Q Let's turn to Append- -- Figure 16 of 21 Dr. Respess' initial report. 22 A Sorry, what page are you on? | 17 BY MS. GOODMAN: 18 Q Okay. And 10 million -- 19 VIDEO TECHNICIAN: Careful not to touch 20 the mic, ma'am. 21 THE WITNESS: Oh, sorry, sorry. 22 BY MS. GOODMAN: |

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| <p>1 Q 10,067,334 divided by the total AdX 2 revenue in your damages calculation of 41,789,429 3 is 24.1 percent, correct? 4 MR. BRISKIN: Objection to form. 5 THE WITNESS: I will take your 6 representation on the arithmetic. 7 BY MS. GOODMAN: 8 Q Okay. And so for 24.1 percent of the 9 input of AdX revenues in your damages calculations 10 in this case you were not able to show -- you were 11 -- you did not write anywhere in your report that 12 CMS and NHTSA paid for those transactions, 13 correct? 14 MR. BRISKIN: Objection to form. 15 THE WITNESS: I did not perform 16 walk-throughs of the CMS and -- and NHTSA 17 pathways -- purchase -- FAA purchase pathways. 18 Can we take a break in about five -- 19 just a bio break in about five minutes? 20 BY MS. GOODMAN: 21 Q And so you did not -- you were not able 22 to confirm that NHTSA and CMS paid the combined</p> | <p>1 reflected in Figure 16, correct? 2 MR. BRISKIN: Objection to form. 3 THE WITNESS: Yes. 4 BY MS. GOODMAN: 5 Q Okay. And the \$10 million reflected in 6 Figure 16 is approximately 24.1 percent of the 7 total AdX revenue going into your damages 8 calculation, correct? 9 MR. BRISKIN: Objection to form. 10 THE WITNESS: I haven't done that math, 11 but I'm happy to take your representation on it. 12 MS. GOODMAN: Okay. We can take your 13 break now. 14 THE WITNESS: Great. Thank you. 15 VIDEO TECHNICIAN: Off the record at 16 5:29. 17 (Brief recess.) 18 VIDEO TECHNICIAN: Back on the record at 19 5:35. 20 BY MS. GOODMAN: 21 Q Okay. So continuing on your -- at 22 your -- looking at your Figure 16 on page 33, of</p> |
| Page 243 | Page 245 |
| <p>1 \$10 million shown in Figure 16, correct? 2 MR. BRISKIN: Objection to form. 3 THE WITNESS: The \$10 million would be a 4 subset of what they paid. Yeah, so, again, I was 5 unable to perform walk-throughs of the CMS and 6 NHTSA FAA purchase -- purchase pathways whereby 7 I -- I could gain an understanding of the payment 8 process. 9 BY MS. GOODMAN: 10 Q The purpose of the walk-through that you 11 do is as you describe in paragraph 56 of the 12 Dr. Respass initial report, which was to confirm 13 that the FAA paid for those transactions, correct? 14 A I would see those -- I see those words 15 on the page. The -- I think of it as I performed 16 the walk-throughs to -- to gain an understanding 17 of the payment flow process and in that process I 18 confirmed that the FAAs paid for amounts invoiced 19 by Google. 20 Q And because you didn't do that 21 walk-through for CMS or NHTSA, you had not 22 confirmed that those FAAs paid the \$10 million</p> | <p>1 the remaining approximately 31 million in AdX 2 revenue reflected in Figure 16, how much of that 3 31 million were you able to trace back to proof of 4 payment in the record? 5 MR. BRISKIN: Objection to form. 6 THE WITNESS: So Appendix E indicates 7 the -- 8 VIDEO TECHNICIAN: Ma'am, please don't 9 touch it. 10 THE WITNESS: Oh, sorry. 11 Appendix E shows the FAA purchase 12 pathways for which I performed walk-throughs. 13 BY MS. GOODMAN: 14 Q Okay. And how much in spending were you 15 able to walk through and thus confirm purchases -- 16 I'm sorry -- payments for? 17 MR. BRISKIN: Objection to form. 18 THE WITNESS: In the -- in the 19 walk-throughs I performed I confirmed that the 20 FAAs paid for 100 percent of Google's invoices. 21 BY MS. GOODMAN: 22 Q Well, you say in paragraph 56 that you</p> |

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| <p>1 selected a number of transactions of open web 2 display advertising and confirmed that the FAA 3 paid for those transactions.</p> <p>4 Is the number every single transaction 5 which is included in your damages analysis?</p> <p>6 MR. BRISKIN: Objection to form.</p> <p>7 THE WITNESS: So there -- within each 8 FAA purchase pathway there are -- there are many 9 invoices and many purchases. I performed 10 walk-throughs for a subset of the invoices -- of 11 the Google invoices in each FAA purchase pathway.</p> <p>12 BY MS. GOODMAN:</p> <p>13 Q Okay. Let's turn to Appendix E, 14 "Pathway Examples and Associated Documents" in 15 Dr. Respess' initial report. It's page 141.</p> <p>16 A I am there.</p> <p>17 Q If I add up in each pathway example the 18 numbers included in your Column A under "RFP76 19 Data," is it your testimony that number will equal 20 all of the transactions which you included in your 21 damages analysis except for those for CMS and 22 NHTSA?</p> | <p>1 Q Okay. And let's turn to Figure 11 in 2 your -- in Respess' report.</p> <p>3 A Okay. We're -- we're leaving page 141.</p> <p>4 Can you tell me what page to go to?</p> <p>5 Q Twenty-one.</p> <p>6 And there's 46.4 million in Column A, 7 which is included as in scope in your damages 8 analysis, correct?</p> <p>9 MR. BRISKIN: Objection to form.</p> <p>10 THE WITNESS: Yes.</p> <p>11 BY MS. GOODMAN:</p> <p>12 Q Okay. So -- and you were not able to 13 confirm for NHTSA or CMS the 1.4 or -- million or 14 808,000 reflected in Figure 11, correct?</p> <p>15 MR. BRISKIN: Objection to form.</p> <p>16 THE WITNESS: You're referring to the 17 amounts in Column A?</p> <p>18 BY MS. GOODMAN:</p> <p>19 Q Yes.</p> <p>20 A Yeah.</p> <p>21 Q You were not able to confirm that those 22 amounts for CMS and NHTSA were in fact paid for?</p> |
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| <p>1 MR. BRISKIN: Objection to form.</p> <p>2 THE WITNESS: No.</p> <p>3 BY MS. GOODMAN:</p> <p>4 Q No. If I --</p> <p>5 A That's not my testimony.</p> <p>6 Q Okay. If I add up each RFP76 data 7 number reflected in Appendix E, that's 8 approximately \$7.5 million. Any reason to doubt 9 that?</p> <p>10 MR. BRISKIN: Objection to form.</p> <p>11 THE WITNESS: I'm happy to take your 12 representation on that.</p> <p>13 BY MS. GOODMAN:</p> <p>14 Q Okay. And the RFP76 data shows total ad 15 spending, right? It's not just AdX revenue?</p> <p>16 MR. BRISKIN: Objection to form.</p> <p>17 THE WITNESS: The RFP76 data shows the 18 amounts invoiced by Google.</p> <p>19 BY MS. GOODMAN:</p> <p>20 Q Right, which is not only AdX revenue, 21 correct?</p> <p>22 A Correct.</p> | <p>1 A Correct.</p> <p>2 Q Okay. And so if we take those amounts 3 out from the 46.4 million, we're still at a number 4 that's more than \$7.5 million, correct?</p> <p>5 MR. BRISKIN: Objection to form.</p> <p>6 THE WITNESS: If you're asking me about 7 the arithmetic, I'll take your representation on 8 that.</p> <p>9 BY MS. GOODMAN:</p> <p>10 Q Okay. And so of the \$46.4 million 11 included in your damages analysis as reflected in 12 Figure 11, you were able to confirm purchases for 13 7.5 million as reflected in your Appendix E 14 walk-through; is that accurate?</p> <p>15 MR. BRISKIN: Objection to form.</p> <p>16 THE WITNESS: I was able to confirm 17 payment for more than the sum of the RFP76 amounts 18 shown in Appendix E.</p> <p>19 BY MS. GOODMAN:</p> <p>20 Q Okay. But you nowhere set out the work 21 you did to confirm that payment for all of those 22 amounts, right? You only set out the work you did</p> |

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| <p>1 to confirm payment for \$7.5 million in RFP76 2 spending numbers?</p> <p>3 MR. BRISKIN: Objection to form.</p> <p>4 THE WITNESS: I -- I disagree with that 5 characterization. Appendix E shows examples of 6 the walk-throughs that I performed for each of the 7 FAA purchase pathways excluding the CMS and -- and 8 NHTSA pathways. Appendix E includes all of the 9 documents that I used in performing my 10 walk-throughs. Although there's a -- a table at 11 the beginning of each FAA purchase pathway in 12 Appendix E, that table represents one example of 13 the multiple walk-throughs that I performed and 14 the -- the process is the same. The pattern is 15 the same within each FAA purchase pathway for the 16 process that I did of -- of walking through the -- 17 the payment process, so I -- I'll stop there.</p> <p>18 BY MS. GOODMAN:</p> <p>19 Q Okay. And so you did not give an 20 example -- or you did not -- your pathway figures 21 in Appendix E do not show me all of the work that 22 you claim to have done, correct, in order to trace</p> | <p>1 the Navy purchases upon which your damages 2 calculations are based?</p> <p>3 MR. BRISKIN: Objection to form.</p> <p>4 THE WITNESS: So I provided the example 5 in Figures 54 -- in Figure 54 of the walk-through 6 that I performed for that particular invoice and 7 it's the exact same process that I did and that 8 one could do for the other Google invoices that 9 would be included in the Bates stamped documents 10 in Figure 55. So I didn't feel it was necessary 11 to have a very repetitive -- and it would be 12 probably over a thousand pages -- I didn't feel it 13 was necessary to repeat -- to show every single 14 Google invoice -- show a table -- show a table 15 like I did in 50- -- Figure 50- -- sorry, 16 Figure 54 for every single walk-through that I did 17 for Navy because the -- the pattern, the process 18 is the same.</p> <p>19 One -- one could check my work, so to 20 speak, by reviewing the documents that are listed 21 in Figure 55.</p> <p>22 BY MS. GOODMAN:</p> |
| <p>1 the payments?</p> <p>2 MR. BRISKIN: Objection to form.</p> <p>3 THE WITNESS: I disagree with that.</p> <p>4 BY MS. GOODMAN:</p> <p>5 Q Okay. Let me try again.</p> <p>6 How am I supposed -- let's take -- let's 7 take Navy. Turn to page 152.</p> <p>8 A I am there.</p> <p>9 Q Okay. And so your asterisks on the 10 pathway documents, Figure 55, mean that those are 11 the documents I should look at in order to check 12 your work reflected in Figure 54, correct?</p> <p>13 MR. BRISKIN: Objection to form.</p> <p>14 THE WITNESS: Oh, one -- one could check 15 my work, so to speak, by reviewing the asterisked 16 documents.</p> <p>17 BY MS. GOODMAN:</p> <p>18 Q Okay. So how is it that I am able -- 19 how is it that you would suggest I look at every 20 other document you cite in Figure 55 in order for 21 me to check your work and confirm your testimony 22 that you saw a hundred percent payment for all of</p> | <p>1 Q But you've told me that the tracing 2 process that you've done is complex, right?</p> <p>3 A It -- it can be.</p> <p>4 Q Yes. And there are many, many, many 5 documents cited in Figure 55, right?</p> <p>6 A I don't know what you mean by "many, 7 many." I could count those for you if you'd like.</p> <p>8 Q All right. I'm not asking you do that.</p> <p>9 A Just -- so to -- to clarify --</p> <p>10 Q There's no pending question. Let me ask 11 my question. Thank you.</p> <p>12 A Apologies.</p> <p>13 Q You have not set out in your report 14 anywhere the pathway work you did to confirm 15 payment for every invoice other than NHTSA and CMS 16 that is included in your damages calculation, 17 correct?</p> <p>18 MR. BRISKIN: Objection to form.</p> <p>19 THE WITNESS: I disagree with that.</p> <p>20 BY MS. GOODMAN:</p> <p>21 Q Your pathway figures that I can read in 22 order to check your work and turn to the</p> |

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| 1 MR. BRISKIN: Objection to form. | 1 you, for example, any documents showing that |
| 2 THE WITNESS: Are you talking about | 2 Criteo sometimes charges a negative platform fee? |
| 3 exchanges in general or are you talking about AdX? | 3 MR. BRISKIN: Objection to form. |
| 4 BY MS. GOODMAN: | 4 THE WITNESS: Well, I was interested in |
| 5 Q Did you see any evidence one way or | 5 the platform fees that Google charges. |
| 6 another for any platform, any advertiser, ad | 6 BY MS. GOODMAN: |
| 7 network, or DSP that they may vary their platform | 7 Q Okay. So you didn't see the document |
| 8 fees based on bids into exchanges? | 8 that I just explained? |
| 9 MR. BRISKIN: Objection to form. | 9 MR. BRISKIN: Objection to form. |
| 10 THE WITNESS: I'm not really sure what | 10 THE WITNESS: I'm not sure which |
| 11 you mean by "based on bids into exchanges." They | 11 document that is. Did you want to show that to me |
| 12 may -- | 12 so I can refresh my memory? |
| 13 BY MS. GOODMAN: | 13 BY MS. GOODMAN: |
| 14 Q Okay. Let me try again. | 14 Q No. But do you recall sitting here |
| 15 Do you cite anything in paragraph 77, in | 15 today seeing any document showing that Criteo |
| 16 terms of documentary evidence, that supports your | 16 charges a negative platform fee on occasion? |
| 17 assumption that the actual percentage of platform | 17 MR. BRISKIN: Objection to form. |
| 18 fees as a fraction of AdX revenue would have | 18 THE WITNESS: I reviewed hundreds of |
| 19 remained constant absent the AdX overcharge? | 19 documents in this case. I -- I don't recall that |
| 20 MR. BRISKIN: Objection to form. | 20 one way or another. |
| 21 THE WITNESS: I -- I think I just | 21 BY MS. GOODMAN: |
| 22 explained to you that I have no data available to | 22 Q Okay. You conducted a profitability |
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| 1 me which indicates that the actual percentage | 1 analysis in this case, right? |
| 2 would have changed, so I make the assumption that | 2 A I did. |
| 3 it would have remained the same. And so with | 3 Q And you understood that Professor Lee |
| 4 regard to that, you can't cite something that's | 4 may rely on your profitability analysis, correct? |
| 5 not there. | 5 A Yes. |
| 6 BY MS. GOODMAN: | 6 Q And you understand Professor Lee did not |
| 7 Q Did you ask for information that would | 7 in fact rely on your profitability analysis, |
| 8 support or refute your assumption that the actual | 8 correct? |
| 9 percentage of platform fees as a fraction of AdX | 9 MR. BRISKIN: Objection to the form. |
| 10 revenues would have remained constant absent the | 10 THE WITNESS: That is my understanding. |
| 11 AdX overcharge? | 11 BY MS. GOODMAN: |
| 12 MR. BRISKIN: Objection to form. | 12 Q And in your rebuttal report you say that |
| 13 THE WITNESS: I -- I directed my staff | 13 you would not use a DVAA P&L excluding AdMob to |
| 14 to research this issue and to look for data and, | 14 reach any conclusion about the profitability -- |
| 15 as -- as I testified, no data was available. | 15 profitability of products in the relevant product |
| 16 BY MS. GOODMAN: | 16 markets, correct? |
| 17 Q When you say "data," are you talking | 17 MR. BRISKIN: Objection to form. |
| 18 about like a spreadsheet transaction or, you know, | 18 THE WITNESS: Those -- those sounds like |
| 19 aggregated data or are you talking about documents | 19 the words I -- I used. |
| 20 like e-mails and memos and things? | 20 BY MS. GOODMAN: |
| 21 A Both. | 21 Q I'm looking at paragraph 56. |
| 22 Q Okay. And so your staff didn't give | 22 A In which report? |

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| <p>1 Q The rebuttal.</p> <p>2 A Yes.</p> <p>3 Q And the DVAA P&L excluding AdMob to</p> <p>4 which you are referring in paragraph 56 is a</p> <p>5 figure that you created in -- or that Dr. Respess</p> <p>6 created in his initial report, correct?</p> <p>7 A There is a figure that relates to the</p> <p>8 profitability of DVAA excluding AdMob in the</p> <p>9 Respess report.</p> <p>10 Q Okay. And that's Figure 28 on page 49</p> <p>11 of the Respess report, correct? If you can look</p> <p>12 at that.</p> <p>13 A Okay. Hold on a second.</p> <p>14 Which page?</p> <p>15 Q Forty-nine, Figure 28.</p> <p>16 A I see that.</p> <p>17 Q And is that the DVAA P&L to which you</p> <p>18 are referring in paragraph 56 of your rebuttal</p> <p>19 report?</p> <p>20 A Yes, I believe so.</p> <p>21 Q Okay. And then looking at Figure 28 in</p> <p>22 the initial Respess report, that figure shows that</p> | <p>1 the errata version if you'd like.</p> <p>2 Q Yes.</p> <p>3 A So, sorry, ask your question again.</p> <p>4 Q This Figure 28 shows that [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED] right?</p> <p>7 A Yes.</p> <p>8 Q Okay. And you agree that this Figure 28</p> <p>9 shows that [REDACTED]</p> <p>[REDACTED]</p> <p>11 MR. BRISKIN: Objection to form.</p> <p>12 THE WITNESS: One more time.</p> <p>13 BY MS. GOODMAN:</p> <p>14 Q You agree that this Figure 28 shows that</p> <p>15 [REDACTED]</p> <p>16 MR. BRISKIN: Objection to form.</p> <p>17 THE WITNESS: The results of this table</p> <p>18 compared to [REDACTED] suggests</p> <p>19 that [REDACTED]</p> <p>[REDACTED]</p> <p>21 BY MS. GOODMAN:</p> <p>22 Q So you stand by the sentence in</p> |
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| <p>1 [REDACTED]</p> <p>[REDACTED], correct?</p> <p>3 MR. BRISKIN: Objection to form.</p> <p>4 THE WITNESS: It -- it shows [REDACTED]</p> <p>[REDACTED]</p> <p>6 There is an errata version of this</p> <p>7 figure in my rebuttal report.</p> <p>8 BY MS. GOODMAN:</p> <p>9 Q That's what we're looking at.</p> <p>10 A Oh, I was looking at --</p> <p>11 Q No. You're --</p> <p>12 A Sorry, am I looking at the errata</p> <p>13 version?</p> <p>14 Q Yes, ma'am.</p> <p>15 A Got it.</p> <p>16 Q Okay. So your Figure 28, which is Lim</p> <p>17 Exhibit 1, shows [REDACTED]</p> <p>[REDACTED], right?</p> <p>19 A Sorry, there's -- I was getting confused</p> <p>20 between the errata version and the updated</p> <p>21 version. There's an updated version as well in --</p> <p>22 in my rebuttal report. But we -- we can keep on</p> | <p>1 paragraph 99 that "Operating profit margin in this</p> <p>2 [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED], correct?</p> <p>6 A Yes.</p> <p>7 Q Okay. So let's go back to your</p> <p>8 paragraph 56 in your rebuttal report.</p> <p>9 The DVAA P&L excluding AdMob that you</p> <p>10 would not use to reach any conclusion about the</p> <p>11 profitability of products in the relevant product</p> <p>12 markets, does that also include Figure 2 in your</p> <p>13 rebuttal report?</p> <p>14 MR. BRISKIN: Objection to form.</p> <p>15 THE WITNESS: That's the updated one I</p> <p>16 was talking about. Yes, that -- wherever that was</p> <p>17 the sentence you read me. Sorry.</p> <p>18 BY MS. GOODMAN:</p> <p>19 Q Paragraph 56.</p> <p>20 A I would -- I would also not use the DVAA</p> <p>21 P&L excluding AdMob figures in Figure 2 of the</p> <p>22 rebuttal report to reach any conclusion about the</p> |

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| <p style="text-align: right;">Page 282</p> <p>1 profitability of products in the relevant product 2 markets.</p> <p>3 Q Okay. And both Figure 2 in your 4 rebuttal report and Figure 28 in the corrected for 5 errata Respess report show [REDACTED]</p> <p>[REDACTED], correct?</p> <p>7 A They do.</p> <p>8 Q And thus you would not rely on any P&L 9 [REDACTED] [REDACTED] to make any conclusions about 11 the profitability of products in the relevant 12 product markets, correct?</p> <p>13 A Correct.</p> <p>14 Q Okay. And Figures 2 and Figures 28 both 15 reflect out-of-scope activity, correct?</p> <p>16 A They --</p> <p>17 MR. BRISKIN: Objection to form.</p> <p>18 THE WITNESS: They both reflect -- they 19 both include activity that is not in the relevant 20 product markets.</p> <p>21 BY MS. GOODMAN:</p> <p>22 Q Okay. And are you aware of any expert</p> | <p style="text-align: right;">Page 284</p> <p>1 THE WITNESS: One could not arrive at 2 a -- a -- one could not simultaneously apply both 3 a principal and agent treatment to the same 4 transaction. Sorry, I'm not --</p> <p>5 BY MS. GOODMAN:</p> <p>6 Q Sure. Understood. Let me ask again. 7 And it's not possible for -- do you 8 agree it's not possible to conclude that, on the 9 set of facts and circumstances for any given 10 transaction, that a registrant could treat itself 11 as a principal or an agent?</p> <p>12 MR. BRISKIN: Objection to form.</p> <p>13 THE WITNESS: Sorry, can you ask your 14 question again?</p> <p>15 BY MS. GOODMAN:</p> <p>16 Q Do you agree that when applying topic 17 606 to any set of facts and circumstances, it is 18 not permitted under that guidance to reach a 19 conclusion that the registrant can be either a 20 principal or an agent?</p> <p>21 MR. BRISKIN: Objection to the form.</p> <p>22 THE WITNESS: I think the guidance with</p> |
| <p style="text-align: right;">Page 283</p> <p>1 for the plaintiffs who rely on your profitability 2 analyses in their reports?</p> <p>3 A I am not.</p> <p>4 Q And Figure 2 and Figure 28 also show [REDACTED] [REDACTED] -- withdrawn.</p> <p>6 Figures 28 and 2 also show [REDACTED] [REDACTED] [REDACTED], correct?</p> <p>9 A Yes.</p> <p>10 Q Do you agree that the principal versus 11 agent consideration is not -- withdrawn.</p> <p>12 Do you agree that the principal versus 13 agent standard in ASC 606 does not permit 14 optionality?</p> <p>15 MR. BRISKIN: Objection to form.</p> <p>16 THE WITNESS: I'm not sure what you mean 17 by "optionality." Can you explain that -- can you 18 explain further what you mean?</p> <p>19 BY MS. GOODMAN:</p> <p>20 Q That it's not -- that it's not a -- it 21 doesn't allow for both conclusions to be drawn.</p> <p>22 MR. BRISKIN: Objection to form.</p> | <p style="text-align: right;">Page 285</p> <p>1 regard to principal/agent treatment requires a 2 high level of judgment and reasonable accountants 3 could arrive at different conclusions with regard 4 to whether -- given the same set of facts and 5 circumstances -- as to whether a company should be 6 considered a principal or whether a company should 7 be considered an agent.</p> <p>8 BY MS. GOODMAN:</p> <p>9 Q And you agree that the principal versus 10 agent assessment is often fact specific and 11 judgment based?</p> <p>12 A It is fact specific and requires 13 judgment.</p> <p>14 Q And because it is fact specific and it 15 requires judgment, do you agree that companies 16 should be cautious about relying on benchmarking 17 to their peer's accounting?</p> <p>18 MR. BRISKIN: Objection to form.</p> <p>19 THE WITNESS: I think the SEC says -- 20 says something along -- or SEC staff has said 21 something along the lines that one can't -- one 22 can't look at another company's accounting with</p> |

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| <p style="text-align: right;">Page 286</p> <p>1 regard to the principal/agent determination and 2 without doing its own determination simply just 3 copy what the other company has done. 4 BY MS. GOODMAN: 5 Q Okay. And do you agree that significant 6 judgment does not mean that the -- the standard 7 permits optionality? 8 MR. BRISKIN: Objection to form. 9 THE WITNESS: There's that "optionality" 10 word again. Maybe you could rephrase that 11 question because that's confusing me. 12 BY MS. GOODMAN: 13 Q Okay. So are you unable to answer the 14 question as I phrased it to you? 15 A I'm sorry, I cannot. It's not clear to 16 me. 17 Q Okay. And do you agree that an area of 18 significant judgment does not mean that the 19 standard permits optionality? 20 MR. BRISKIN: Objection to form. 21 THE WITNESS: It's the "optionality" 22 word that -- that I'm getting hung up on. Maybe</p> | <p style="text-align: right;">Page 288</p> <p>1 Q Okay. Let's look at page 52 of the 2 Respsess initial report corrected for errata. 3 A Okay. Okay. I'm there. 4 Q The last sentence of paragraph 104 says, 5 "However, I believe it would also be reasonable to 6 consider the specified good or service that Google 7 provides advertisers to simply be publishers' ad 8 inventory." 9 Did I read that right? 10 A You read that right. 11 Q And is that your opinion? 12 A I think the -- the words "Google 13 provides advertisers" is a little ambiguous in 14 that sentence. I believe it would be reasonable 15 to consider the specified good or service that 16 advertisers receive to be simply publisher ad 17 inventory. 18 Q Okay. Is that what you are meant to -- 19 is that what registrants are required to evaluate 20 under ASC 606, whether the good or service that is 21 received, or are they supposed to evaluate the 22 good or services provided?</p> |
| <p style="text-align: right;">Page 287</p> <p>1 you can rephrase the question without using that 2 word. 3 BY MS. GOODMAN: 4 Q Okay. And do you agree that in order to 5 make the judgments needed in applying ASC 606, 6 registrants need to roll up their sleeves to 7 understand the nuances of the transactions they're 8 evaluating and apply the standard to their 9 specific set of facts and circumstances? 10 MR. BRISKIN: Objection to form. 11 THE WITNESS: I would agree with that. 12 BY MS. GOODMAN: 13 Q You -- it's your opinion it would also 14 be reasonable to consider the specified good or 15 service that Google provides advertisers to simply 16 be publishers' ad inventory, correct? 17 MR. BRISKIN: Objection to form. 18 THE WITNESS: It's my opinion that it 19 would be reasonable to consider the good or 20 service that an advertiser receives to be 21 publisher inventory. 22 BY MS. GOODMAN:</p> | <p style="text-align: right;">Page 289</p> <p>1 MR. BRISKIN: Objection to form. 2 THE WITNESS: I don't -- I don't want to 3 get hung up on a semantics thing, but -- but the 4 first step is to identify the specific goods or 5 services to be provided to the customer. I 6 didn't -- I didn't mean anything by "received" 7 versus "provided." 8 BY MS. GOODMAN: 9 Q Okay. 10 A It's just that, you know, one party 11 provides, another party receives. 12 Q And ASC 606 talks about the provision of 13 goods and services, right? 14 MR. BRISKIN: Objection to form. 15 THE WITNESS: It does. 16 BY MS. GOODMAN: 17 Q And this sentence in paragraph 104 which 18 we just read, you don't cite any documents in 19 support of your belief that it would also be 20 reasonable to consider the specified good or 21 service that Google provides advertisers to simply 22 be publishers' ad inventory, correct?</p> |

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| 1 Q When you worked at Ernst & Young -- what 2 time period did you work at Ernst & Young? 3 A '95 through '98. 4 Q Other than in this case, have you looked 5 at Ernst & Young audit reports since -- over the 6 time -- over the time period of 2015 to the 7 present let's say? In the course of your work 8 have you had occasion to look at EY audit reports? 9 A For any company? 10 Q Yes. 11 A Audit opinions, yes. 12 Q Okay. And in the course of your work on 13 this case you do not disagree with anything that 14 EY concluded as to the principal/agent 15 determination that Google made, correct? 16 MR. BRISKIN: Objection to form. 17 THE WITNESS: I -- I don't agree or 18 disagree with EY not taking exception to Google's 19 treatment of itself as a principal in most of its 20 transactions. 21 BY MS. GOODMAN: 22 Q Okay. | 1 MS. GOODMAN: We just went back on the 2 record and I just want to note for the record that 3 I am reserving my rights to bring Ms. Lim back for 4 additional questioning based on the filibustering, 5 evasive answers, and nonresponsiveness to my 6 questions. So I just wanted to state that for the 7 record. 8 MR. BRISKIN: Well, we dispute that. We 9 don't agree with your characterizations. 10 MS. GOODMAN: Okay. Thank you. (Whereupon, at 7:28 p.m., the 12 deposition of ADORIA LIM 13 was concluded.) 14 * * * * * |
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| 1 MR. BRISKIN: Counsel, we're at five 2 minutes over seven hours. 3 MS. GOODMAN: I have one more question 4 if I may. 5 MR. BRISKIN: Okay. 6 MS. GOODMAN: Thanks. 7 BY MS. GOODMAN: 8 Q You do not recall reviewing or seeing 9 testimony from representatives of the Navy in 10 which they testified the only ad network or DSP 11 that they ever used to buy open web display ads 12 was The Trade Desk, correct? 13 MR. BRISKIN: Objection to form. 14 THE WITNESS: I -- I reviewed thousands 15 of documents in this case. I -- I don't recall 16 that one way or the other. 17 MS. GOODMAN: Okay. I pass the witness. 18 MR. BRISKIN: We have no questions. 19 VIDEO TECHNICIAN: All right. If that's 20 everything, off the record on February 29th, 2024 21 at 7:28 p.m. 22 (Discussion off the record.) | 1 CERTIFICATE OF NOTARY PUBLIC I, SHARI R. BROUSSARD, the officer before 3 whom the foregoing deposition was taken, do hereby 4 certify that the witness whose testimony appears 5 in the foregoing deposition was duly sworn by me; 6 that the testimony of said witness was taken by me 7 in stenotype and thereafter reduced to typewriting 8 under my direction; that said deposition is a true 9 record of the testimony given by said witness; 10 that I am neither counsel for, related to, nor 11 employed by any of the parties to the action in 12 which this deposition was taken; and, further, 13 that I am not a relative or employee of any 14 counsel or attorney employed by the parties 15 hereto, nor financially or otherwise interested in 16 the outcome of this action. 17 18 19 20 21 22 |


 SHARI R. BROUSSARD
 Notary Public in and for the
 District of Columbia

My commission expires:
 August 14, 2025

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